Q. I gather recoverability of ATE premiums in insolvency proceedings is ending. What should I do?

A. Get a move on!

1. Something over two and a half years ago, the implementation of Part 2 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 (LASPO), brought about the end of an era for recoverable ATE insurance premiums for most cases.
2. It also brought about what could be described as a 'mad dash' for ATE policies incepted prior to the 01.04.13 cut-off date. A surge in the volume of applications was expected and transpired. Inevitably, some were pretty 'last minute' and time pressures meant not all could be processed prior to the deadline.
3. Insolvency practitioners (IPs) were untroubled by the ‘2013 madness’ because an exemption preserved ‘recoverability’ for insolvency proceedings. Following a ministerial statement by Lord Faulks QC on 17.12.15, it now seems that exemption will come to an end in April 2016.
4. This gives rise to a sense of déjà vu... Undoubtedly a significant number of insolvency claims and IPs will be affected.
5. If you act for IPs you may want to consider the following, which are relevant from an ATE insurer’s perspective:

   • Prepare any application A.S.A.P. A thoughtful and succinctly completed application providing 'at a glance' information makes an effective review much quicker.
   • Key information an underwriter will be looking for will include
     • Costs estimates - own and adverse
     • Quantum – what is it and how it is calculated
     • Brief legal opinion (solicitors or counsel), summarising the facts, the basis of the claim, anticipated defences and the rationale for prospects on both liability and quantum
     • Enforcement prospects.
   • Amount of cover - How much cover should your client be seeking? This will relate back to the costs estimates. Following the first LASPO implementation, some uncertainties remain on the position where cover is extended post the cut-off date. As such, it may be advisable to double check the cover sought will prove sufficient.

6. A final thought - whilst there are obvious advantages in retaining recoverability, where a matter resolves on a global basis (as so many do), it may be that the position will not be so very different from April 2016 after all...

Matthew Williams, Head of AmTrust Law. If you have any further questions regarding this or would like to discuss further with AmTrust, please visit our LinkedIn Forum: www.linkedin.com/company/amtrust-law

Celebrating the past and changing the future

Following recent media reports - and social media commentary - on the subject of women in the law, we thought we would use our inaugural column in Modern Law to take a constructive look at this topic by show-casing an enterprise which highlights the pioneering work of women within the legal sector.

The First 100 Years is a ground-breaking history project, supported by the Law Society and the Bar Council, charting the journey of women in law since 1919. In 2019, the campaign, founded by Dana Denis-Smith, will mark the centenary of the Sex Disqualification (Removal) Act 1919, which paved the way for women to enter the profession.

The project will produce 100 short films for the British Library, celebrating powerful female role models, providing a platform for debate and establishing a valuable archive for the future.

The aim is to promote a strong and equal future for all women in the legal profession. Great progress has been made but there is still so much more to achieve, as was illustrated by the study published in July 2015, which revealed a 42% pay gap between male and female solicitors in Scotland.

The First 100 Years project challenges the attitudes underlying such statistics with stories of women lawyers such as Rose Heilbron. Born before women had the vote, she was a working mother who (with Helena Normanton) became the first female barrister to take silk, the first to lead in a murder case, the first woman recorder and the first woman to sit at the Old Bailey. As chair of the Heilbron Committee, she made the recommendations that rape victims should remain anonymous and be protected from unnecessary cross-examination about their sexual history, which we now take for granted as law.

We are delighted that, in Bridget Dolan and Katie Gollop, we have two female barristers taking silk this year at Serjeants’ Inn Chambers (together with Mike Horne). However, it remains the case that women represent just 13% of today’s QCs. In this context we would urge you to visit first100years.org.uk for fascinating stories of inspiring women, ranging from Eliza Orme (the very first woman to sit at the Old Bailey) to Sonya Leydecker (who in 2014 became the first female barrister to take silk, the first to lead in a murder case, the first woman recorder and the first woman to sit at the Old Bailey). As chair of the Heilbron Committee, she made the recommendations that rape victims should remain anonymous and be protected from unnecessary cross-examination about their sexual history, which we now take for granted as law.

The law society's recent report, The Future of Legal Services, predicts that by 2020 (101 years after the introduction of the Sex Disqualification (Removal) Act) women will account for over half of all solicitors. We are delighted to support a project which highlights so many inspiring individual women lawyers. As Dana notes: “by celebrating the past we will be changing the future”.

Catherine Calder, Solicitor and Director of Client Care, Serjeants’ Inn Chambers.

I. Correct at time of writing