

THE LAW SOCIETY OF NEW SOUTH WALES PROFESSIONAL STANDARDS SCHEME (22 NOV 2020 – 21 NOV 2021)

APPLICATION FOR DISCRETIONARY HIGHER CAP

To be completed by law practices choosing a Discretionary Higher Maximum Amount of Liability.

This form must be submitted with or after you have submitted an Application for Participation in The Law Society of New South Wales Professional Standards Scheme.

All applications are determined by the Scheme Administration Committee.

Clauses 5.1 and 5.2 of The Law Society of New South Wales Professional Standards Scheme (the Scheme) provide:

- 5.1 The Law Society Council has discretionary authority, on application by a Participating Member, to specify in relation to the Participating Member, a higher maximum amount of liability than would otherwise apply under the Scheme in relation to him or her either in all cases or in any specified case or class of case.
- 5.2 If, in the exercise of discretion under clause 5.1, the Law Society Council has specified a higher maximum amount of liability than would otherwise apply under the Scheme in relation to a Participating Member, after satisfying itself that there is evidence of top up Professional Indemnity Insurance commensurate with the higher maximum amount of liability sought, then the maximum amount of liability in relation to that Participating Member is that higher maximum amount.

1. LAW PRACTICE DETAILS

Law Practice Name:	Law Practice ID:
Business Address:	

2. HIGHER CAP

The law practice applies for a higher maximum amount of liability as follows:

Limitation Amount

Current limitation amount under the Scheme for this law practice:

\$ million

Higher maximum amount of liability sought:

\$ million

You must complete section 2A, 2B or 2C below

SECTION 2A - THIS APPLICATION IS MADE IN RESPECT OF ALL CASES

Yes (continue to section 3)

Dates you seek the higher cap to apply:

No (complete either sections 2B or 2C below)

From: / / to: / /


SECTION 2B - IF APPLICATION IS MADE IN RESPECT OF A CLASS OF CASE, PLEASE PROVIDE DETAILS HERE OR BY ANNEXURE


Dates you seek the higher cap to apply:

From: / / to: / /

Class of case:

Transaction type:

 Attach additional page if necessary.

 Attach additional page if necessary.

2. HIGHER CAP (CONTINUED)

SECTION 2C - IF APPLICATION IS MADE IN RESPECT OF A SPECIFIED CASE, PLEASE PROVIDE DETAILS HERE OR BY ANNEXURE

Dates you seek the higher cap to apply:

From: / / to: / /

Specified case:

Transaction type:

Attach additional page if necessary.

Attach additional page if necessary.

3. NOTIFICATION TO CLIENTS OF HIGHER CAP

The law practice will notify those clients affected by the specification of the higher maximum amount of liability in the following manner:

Attach additional page if necessary.

4. EVIDENCE

- Attached is a current Certificate of Currency of Professional Indemnity Insurance (PII) relating to the PII cover for the law practice and which is commensurate with the higher maximum amount of liability sought under this application.

5. DECLARATION, UNDERTAKING, AUTHORISATION AND AGREEMENT

Declaration

1. I am a principal duly authorised for and on behalf of the law practice and its legal practitioners to make this application.
2. I declare that the contents of this application are true and correct.

Undertaking

As a duly authorised principal, and on behalf of the law practice and its legal practitioners, I undertake that I will:

1. Notify the Law Society of any subsequent change in the circumstances referred to in this application, that is relevant to the Law Society's exercise of its discretionary authority, including any relevant changes in Professional Indemnity Insurance (PII) arrangements;
2. Apply, if appropriate, to the relevant occupational association in the other jurisdictions of which the participating Scheme members in the law practice are also members, for a higher maximum amount of liability that is consistent with the amount specified by the Law Society, where a scheme applies to the participating members of the law practice under Professional Standards Legislation of another State or Territory;
3. Provide the Law Society with a copy of the PII policy and Schedule of the policy, submitted in support of this application, immediately upon request by the Law Society;

4. Notify clients of any higher maximum amount of liability in the nature and manner specified in this application; and
5. Immediately advise the Law Society when a PII notification or claim approaches the law practice's applicable monetary ceiling under the Scheme, and will provide such further information as requested by the Council of the Law Society.

Authorisation and Agreement

As a duly authorised principal, and on behalf of the law practice and its legal practitioners, I:

1. Authorise the Law Society of New South Wales, for the purposes of this application, to make relevant enquiry of the client(s) or other relevant person(s), to provide particulars of the application to other relevant person(s) or bodies including Law Societies in other States and Territories in which the applicant practises, and to record particulars of the applicant, details of the cases to which the exercise of the discretion is to apply, and any specified higher maximum amount of liability, on its database; and
2. Agree that any reasonable period of notice may be given to the law practice by the Law Society of a change to the higher maximum amount of liability where the Law Society, in its absolute discretion, determines that the period of notice is reasonable in the circumstances, including where the law practice cease/s to have the benefit of Professional Indemnity Insurance at an appropriate standard and level.

Authorised signatory's name: (must be a principal of the law practice):

Law Practice Name:

Signed:

Dated (DD/MM/YYYY):

/ /

2020 – 2021 SCHEME ADMINISTRATION COMMITTEE TIMETABLE

The lodgment dates for 2020 – 2021 Scheme Administration Committee meetings can be obtained by contacting the Law Society Scheme team on (02) 9926 0189 or by email to scheme@lawsociety.com.au

TO COMPLETE THIS APPLICATION

Please save this form to your computer, complete it and then email to scheme@lawsociety.com.au
Alternatively you can complete the form by hand, scan and email to scheme@lawsociety.com.au

PERSONAL INFORMATION COLLECTION NOTICE

By completing this form you are providing personal information to the Law Society of New South Wales ACN 000 000 699 ABN 98 696 304 966 (we, us, or our).

Who do we collect the personal information from?

We generally collect your personal information directly from you. However, in some cases, we may receive your personal information from a third party (for instance if we receive a complaint) and when it is relevant to our statutory responsibilities (for instance other regulators who have dealt with you).

For what purposes do we collect personal information?

We collect your personal information to:

- fulfil our functions and responsibilities under, and facilitate compliance with, the *Legal Profession Act 2004* (NSW), legal profession legislation (as defined in the *Legal Profession Uniform Law Application Act 2014*), the *Corporations Act 2001* (Cth), the *Professional Standards Act 1994* and associated regulations (which require and authorise us to collect certain information) including to maintain regulatory and corporate records;
- fulfil our role as a professional association including:
 - maintaining membership records
 - communicating with you to offer products, services and events and when you obtain a product or service or come to an event
 - to conduct research and provide public representation; and
- provide information to third parties as authorised or required by law.

What if we didn't collect this personal information?

Without your personal information we may not be able to process your application or request, perform our statutory functions or provide you with some or all of the services of the Law Society as a professional association.

Who are the types of bodies and persons to whom we usually disclose your personal information?

Your personal information may be provided to:

- persons distributing information relevant to you as a legal practitioner or member of the Law Society;
- subsidiaries of the Law Society, the College of Law, Lawcover and other professional indemnity insurers and practising certificate funders;
- our professional advisors and contractors (strictly on the basis that the information is to be used only for providing services to the Law Society and must not be disclosed);
- Australian regulators and government entities (such as the Office of the Legal Services Commissioner) and overseas regulators; and
- organisations that represent the legal profession such as the Law Council of Australia and Regional Law Societies.

Disclosure overseas

If you practise in a foreign country (or apply to do so) we may send your personal information overseas in response to an inquiry from the relevant authority in that place.

We use the services of certain third party service providers which may have offices or other operations outside of Australia. As a result, your personal information may be disclosed to overseas recipients. All service providers that have access to personal information held by us are required to keep the information confidential and not to make use of it for any purpose other than to provide services in accordance with their engagement.

You can access and correct your personal information

Our privacy policy contains information about how you may access your personal information and seek correction of such information; as well as how to complain about a breach of the Australian Privacy Principles and how we will deal with such a complaint. Our privacy policy is accessible [here](#).

Phone: (02) 9926 0333
Fax: (02) 9231 5809
Email: CorpLegal@lawsociety.com.au

Please do not return this form to the privacy officer