

## Other news

### *Cavity wall insulation claims handled by the SSB Group*

04 March 2024

#### *Why are SSB Group's clients being pursued for costs relating to cavity wall insulation claims?*

At the end of 2023, we received a number of reports that SSB Group's clients were unexpectedly being pursued to pay adverse legal costs in relation to their discontinued cavity wall insulation (CWI) litigation claims.

SSB Group had arranged after the event (ATE) insurance for clients to cover the other side's costs in relation to their CWI claims on a 'No win, No fee' basis. However, the ATE insurance providers have declined to meet the costs as expected under the insurance policy, and so the defendants have pursued SSB Group's clients for costs.

SSB has gone into administration. It has passed live CWI work to JMR Solicitors Limited [<https://jmrsolicitors.com/>]. JMR will need to contact SSB's former clients to confirm instructions for their respective cases. They do not have to instruct JMR and can choose to instruct another firm.

#### *What is after the event (ATE) insurance?*

It is a type of legal expenses insurance policy taken out to provide cover for legal costs and expenses incurred in litigation in the event a claim is unsuccessful. These policies are commonly used in litigation, including 'No win, no fee' cases.

#### *What we are doing*

We expect solicitors to provide a competent service, and act in the best interest of their clients. We are investigating whether SSB Group acted in compliance with our professional standards.

As part of our investigation, we need to understand why ATE insurance providers haven't paid the defendants' costs in these cases. In terms of SSB Group, we will investigate a range of issues including whether the firm properly assessed the merits of claims, explained any potential liabilities to clients and what information it gave to its clients about the ATE insurance policies.

Our investigation is ongoing. As part of this we are inspecting a sample of client files and checking the firm's systems and processes. We will also

interview its directors and/or employees where necessary and engage with the ATE providers to clarify any information.

This case raises questions about the role of ATE insurance providers and surveyors - as well as whether there are broader issues in relation to legal services. We are therefore liaising with the Financial Conduct Authority (FCA) (which regulates the ATE providers) and the Royal Institution of Chartered Surveyors (RICS) (which regulates surveyors) to share information and insights and understand what action they may be taking, looking at the involvement of ATE providers and surveyors in these cases and to consider whether there are any wider issues or gaps in the current market.

We set and uphold professional standards for solicitors in order to protect the public. When we find that solicitors have fallen short of those standards, we take action. We have a range of powers to discipline solicitors and control their future practice. In the most serious cases we will prosecute at the Solicitors Disciplinary Tribunal. The Tribunal is an independent body with powers, to suspend or strike solicitors off the roll and issue unlimited fines.

Our Enforcement Strategy [<https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/>] sets out the criteria we use when considering concerns about solicitors.

### *What can clients do?*

All firms we regulate must have professional indemnity insurance in place. If a regulated law firm has been found to be negligent, the client may be able to claim on their PII.

Unfortunately, we are not able to give legal advice, but clients may wish to seek independent legal advice. There are online resources - Thinking of using legal services?

[<https://www.sra.org.uk/globalassets/documents/consumers/thinking-using-legal-services.pdf?version=4964af>] guidance, and the Legal Choices [<https://www.legalchoices.org.uk/>] website – they can use to find cost-effective legal support.

The Financial Ombudsman Service (FOS) provides redress for consumers of financial services, such as insurance products like ATE. We have been in contact with the FOS and are able to share information with people who contact us. Whether FOS are able to assist, will depend on the status and location of the ATE provider, but clients can make enquiries with the FOS directly. There is guidance [<https://www.financial-ombudsman.org.uk/consumers/how-to-complain>] on the FOS' website explaining how people can complain to it (after they have complained to the ATE insurance providers first).

If clients believe they have received a poor service from SSB Group, they can contact the Legal Services Ombudsman (LeO). It can direct the firm in question or in some circumstances its successor to put things right if it believes there has been poor service and pay compensation. There is guidance [<https://www.legalombudsman.org.uk/how-to-complain/>] on the LeO's website explaining how people can complain. what they can do if the firm in question has closed

Complaining about closed service providers | Legal Ombudsman.

[<https://www.legalombudsman.org.uk/for-consumers/factsheets/complaining-about-closed-service-providers/>]

We administer a compensation fund which is funded by contributions from individuals and firms we regulate. Unfortunately, unless we find that there has been dishonesty on the part of the solicitors in question or client money has not been accounted for, then the requirements of the fund's rules will not be met in order for payments to be made in this situation.

### *What happens next?*

Our investigation is continuing. Concerns that we need to address include whether clients were properly advised about the risks and benefits of ATE insurance, what assessment was made of the cover that was provided to clients and whether risks were properly managed on claims when they arose. Given the significant consumer detriment and serious questions this case raises, we are committed to progressing our investigation as swiftly as possible, while making sure it is thorough and fair. We expect our investigation to continue until autumn of this year. We will take action where we find evidence that solicitors have fallen short of the standards the public expects.

In addition to conducting our investigation, we are separately engaging with the FOS, FCA, RICS, the Ministry of Justice and other organisations to explore further the protections for consumers in respect of ATE insurance. We need to understand collectively if there is a public policy failure and how it can be fixed.