

# Claims analysis report

## **Solicitors**

2024

## Introduction

At Willis Towers Watson we continuously analyse claims reported by our clients. This enables us to understand the nature, trends, causes and cost breakdown of loss events impacting businesses. We can then provide our clients with a highly valuable source of industry specific risk management information which can highlight:

- The areas of work within an industry or profession that lead to claims.
- The types of claim to which a business may be exposed, including loss examples.
- Root causes of claims and risk management lessons.
- How much claims are likely to cost.
- The time it takes for a wrongful/negligent act to develop into a claim.

A key part of managing and mitigating risk is understanding the circumstances that lead to claims. By building a detailed picture of the types of activities and mistakes that can lead to claims being made, a business can begin to control its exposure to risk.

This report uses our analysed claims data to provide specific insight into the types of loss that your business may be exposed to. Claims reported by clients from 2007 to February 2024 are included in this report. All claims that we have analysed are included in the calculation for the average claim settlement, the determination of the largest loss and the loss amount distribution chart. However, due to the distorting impact of very large losses, we remove “outliers” from the other charts within the report.

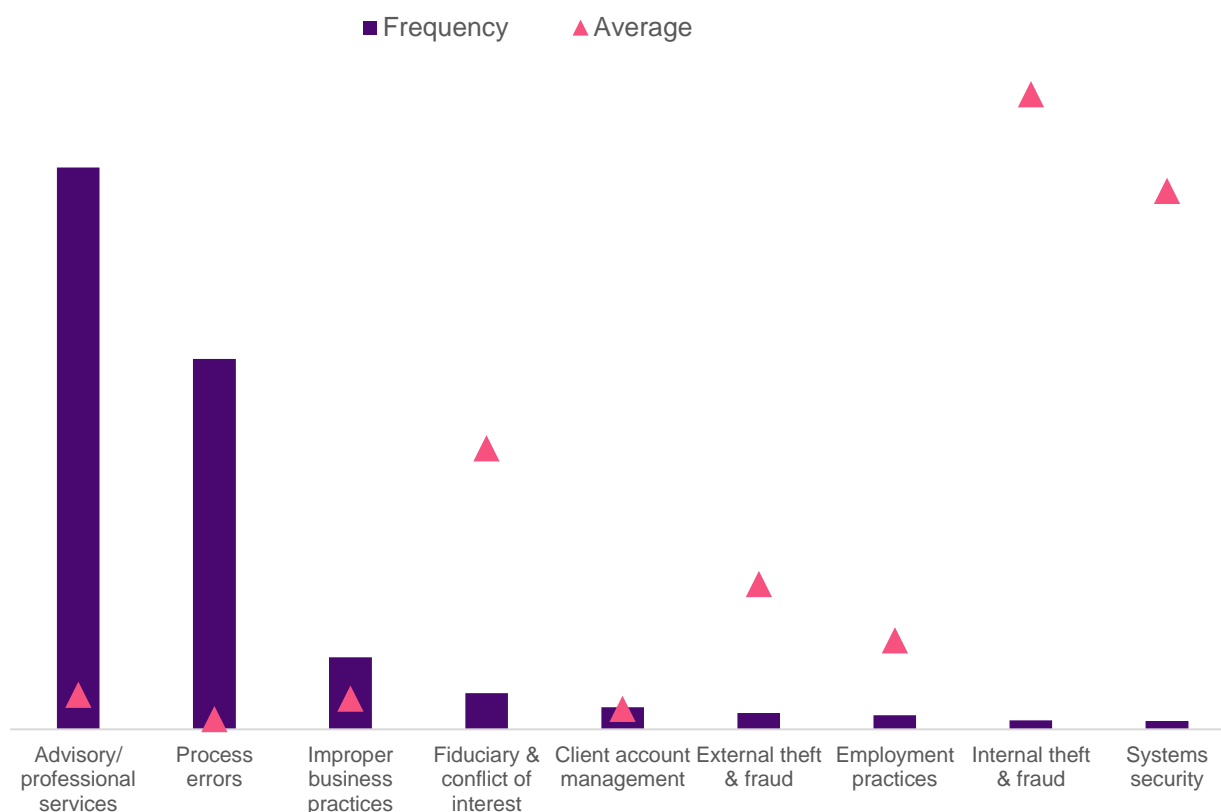
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## Headline figures

	Claims	Largest	Median	Average	Total insurer payments
<b>Solicitors</b>	<b>4800+</b>	<b>£42m</b>	<b>£29k</b>	<b>£886k</b>	<b>£408m+</b>

## Types of loss



The above graph illustrates the frequency and average cost of different loss types.

Not surprisingly the provision of **advisory activities / professional services** produces the largest number of claims against solicitors. These types of claims also have the largest total amount of costs (both settlement and defence costs) associated with them. Examples of allegations in this category are:

- Negligence/standard of work
- Misrepresentation
- Breach of duty of care
- Client requirements not met

**Process errors** relate to execution or process type losses. Examples of these are missed deadlines to register charges or file court papers, drafting errors or missed limitation dates.

**Improper business practices** include claims where there has been a breach of laws and/or regulations, such as antitrust, market manipulation and money laundering. Regulatory investigations, claims based on civil liabilities such as breach of contract and claims in relation to fee disputes are also included in this category.

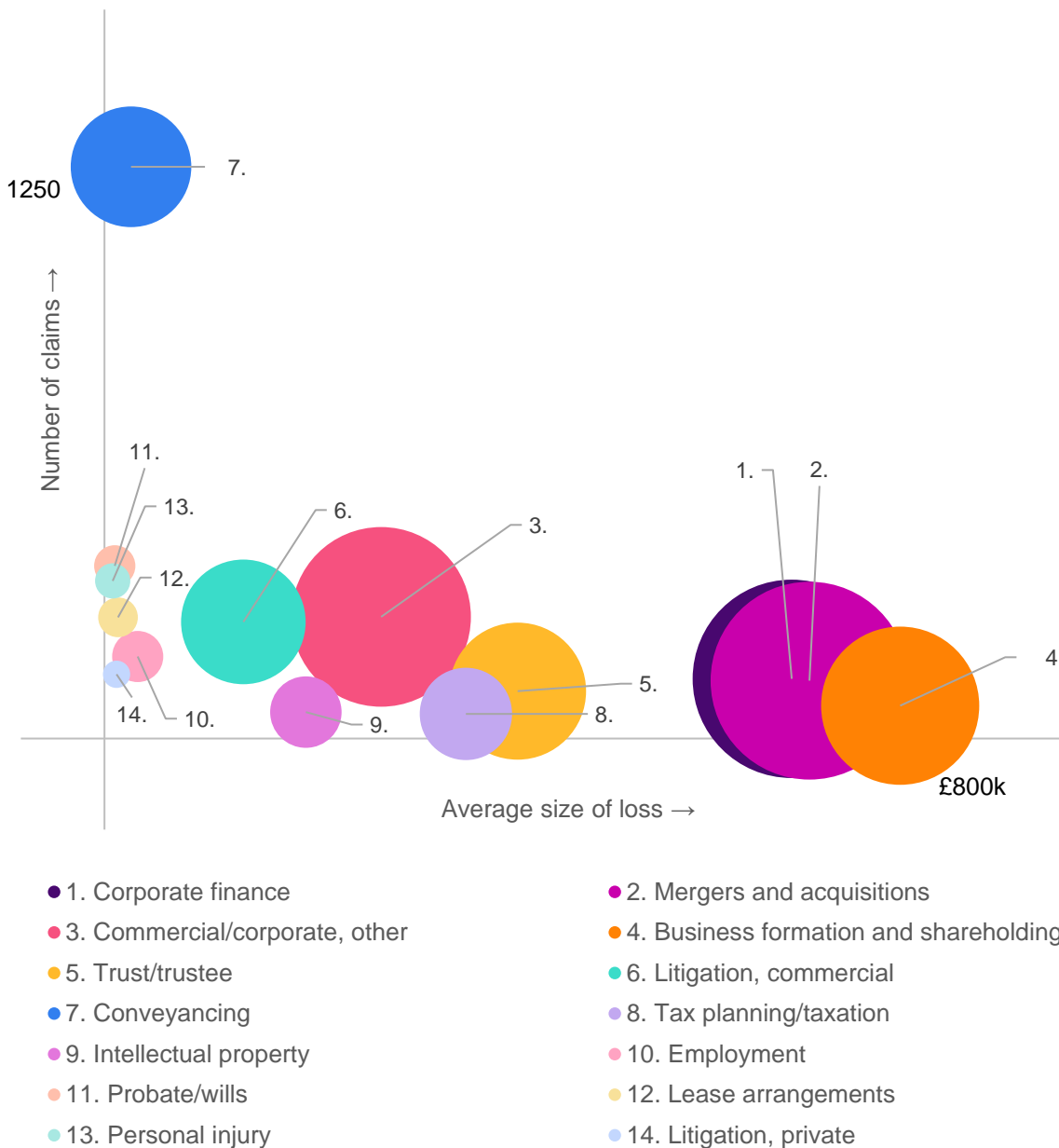
Although less frequent, claims in the **fiduciary & conflict of interest** category have a high average cost associated with them. As well as breaches of fiduciary duty, this category includes claims where the firm failed to identify or manage a conflict of interest.

**Systems security** and other cyber events falling under **theft & fraud** have a high cost on average although they are far less frequent.

A further explanation of all the loss event categories is provided in appendix II.

## Areas of practice

Firms within the legal industry can vary significantly in terms of size, complexity and areas of practice. These factors can have an impact on the risks a business will face and the claims they will eventually see. The graph below demonstrates the areas of practice associated with analysed claims. The bubble size represents the total costs.

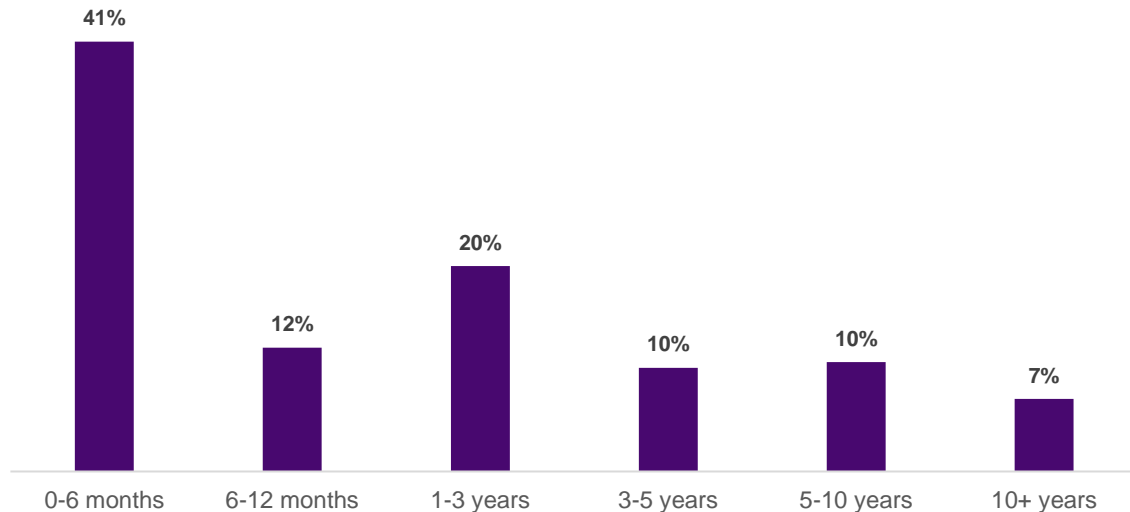


The **commercial / corporate** area of practice has the largest four categories by total cost associated with it. This reflects the potentially higher exposure to risk that are associated with working on larger projects for larger clients.

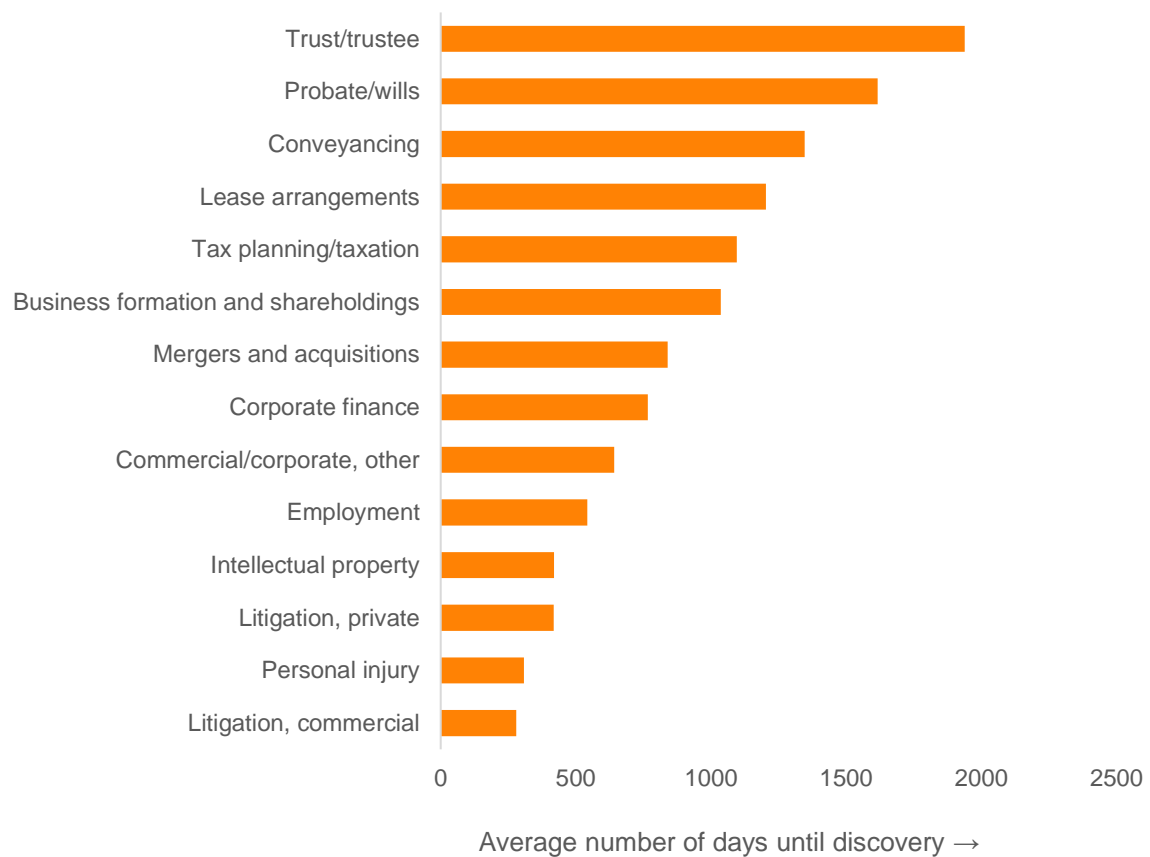
At the other end of the spectrum, **conveyancing** losses are the most frequently notified claims, however the average costs of claims emanating from this area of practice are much lower.

## Timelines

The graph below shows the timeframes for discovery of a claim. For third party claims made against the insured, this is based on the time between the negligent act and the discovery date.

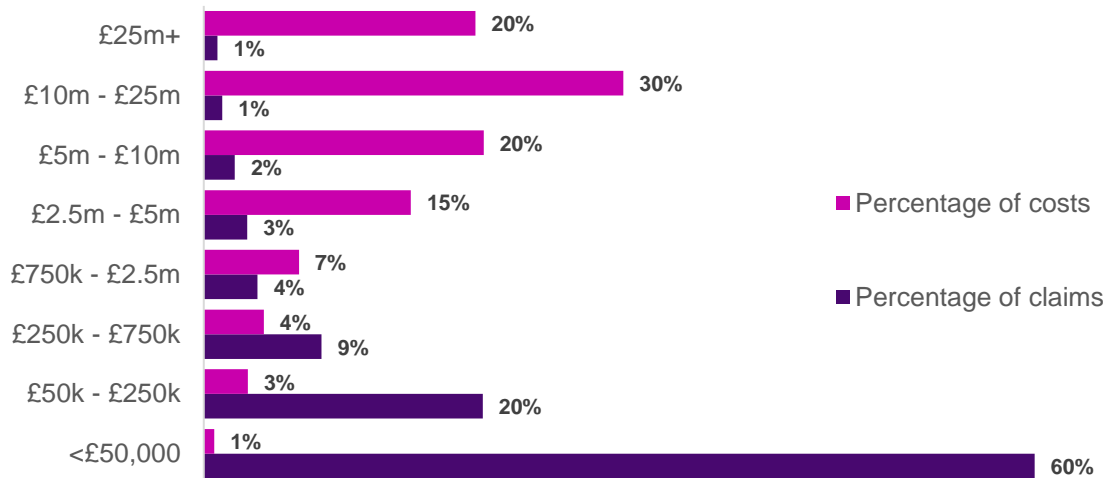


The below graphic shows the average time between the alleged negligent / wrongful act and its discovery, split by the area of practice.



## Cost of claims

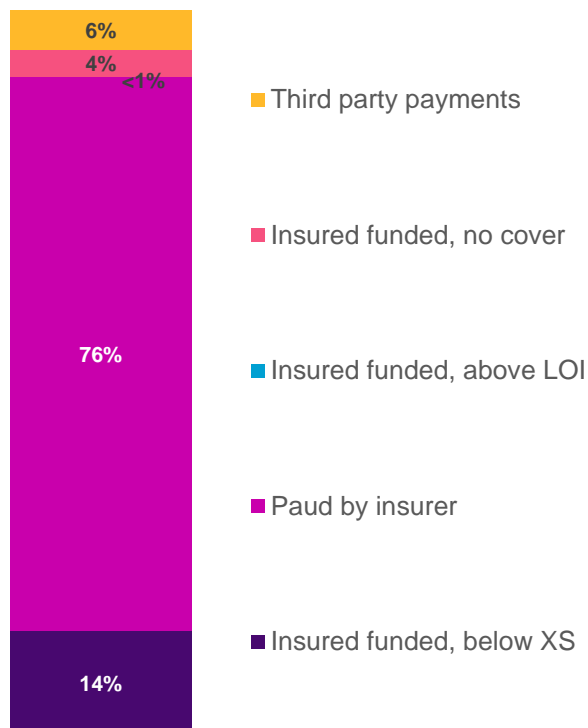
The graphic below shows the distribution of losses in terms of both i) the percentage of claims that fall into each cost bracket and ii) the cost of claims incurred that fall into each cost bracket.



The graph to the right shows how the average claim is funded. It shows that on average 90% of the total loss falls within the terms of the policy coverage. Not covered claim payments account for 4% of total loss costs.

The graphic below highlights the different types of costs that an average claim is comprised of.

An important consideration when measuring the impact and costs of claims and disputes is that the settlement, defence and mitigation costs of the claims are only a portion of the event cost. Other legal fees, lost time, distraction of key personnel and impact on business relationships represent additional 'hidden' costs that may be much larger and unquantifiable.



■ Settlement costs ■ Defence costs ■ Cyber related costs ■ All other costs and expenses

# Appendix I: Claim examples

## **Improper business practices**

Litigation was filed against the insured by a claimant in an underlying employment claim in which the insured was acting for the defendant. In the underlying claim the courts noted that the insured's tactic had been to adopt a strategy of litigation by attrition, by vigorously pursuing baseless defences in the hope that the claimant, who had limited resources, would agree to a nominal settlement or abandon his claim after being unable to sufficiently fund the litigation.

## **Advisory/professional services**

The insured was retained by their client to deal with negotiations for a loan and to advise in relation to a construction project. The insured's client had problems with their general contractor in relation to payment for work to be carried out. The insured proposed to their client that a term sheet be signed which dealt with the distribution of funds and timescales for work to be carried out. This was signed by the general contractor, the insured's client and the lending bank. Several months later, the general contractor walked off the project after collecting a large amount of funds from the insured's client. The insured's client then received multiple mechanic's liens from the subcontractors and suppliers that had not been paid.

## **Process errors**

The insured had been instructed to renew a lease on behalf of their client. The lease was intended to be for a 10-year period with an option to extend for 5 years at the discretion of the client. The insured drafted the lease but the discretionary power to extend the lease had been given to the landlord. Towards the end of the 10-year period, the client had intended to vacate the building as they had constructed their own premises, however, the landlord used the extension option to increase the term of the lease.

## **Fiduciary duty, conflict of interest & disclosure**

The insured had acted for both counterparties to a credit swap agreement. Following a default, the parties entered into litigation and the insured was eventually included in this litigation. The defaulting party alleged that the insured had acted for both parties behind the claimant's back, stating they would not have entered into the contract had they known that the insured was also acting for the counterparty.

## **Theft and fraud**

The insured, acting in a conveyancing transaction, advised that it appeared that the solicitors acting for the sellers had stolen the completion monies and the insured's client had not obtained title to the property. Multiple other transactions appeared to have been fraudulently transacted by the same solicitors on the same day. A claim was made by the client alleging the insured had not acted properly to verify the seller's solicitor even after being warned by the client regarding the legitimacy of the seller's solicitor.

## **Client account management**

The insured's client lived abroad, and the insured had sent her will to get it signed. The original was returned to the insured's office where it was photocopied. It should then have been filed in the wills' safe where all the insured's wills were kept. However, following the client's death there was no trace of the original will in the wills' safe or even in the physical file.

## Appendix II – Loss event descriptions

**Improper business practices** - This will include claims where there has been a breach of laws and/or regulations, such as antitrust, market manipulation and money laundering. Claims based on civil liabilities such as breach of contract will also sit within this category.

**Advisory/professional services** – In this category we will see claims where the advice or professional services provided have been inaccurate, incomplete or negligent. This could include where the claimant believes that his requirements have not been met, and/or for instance where due diligence has been lacking.

**Process management** – This category will include process type errors based on data entry or inputting errors, miscommunication, clerical errors or failing to meet a certain deadline. Failure to deliver agreed services such as payments or documents on time would also be included.

**Fiduciary duty, conflict of interest & disclosure** – As well as breaches of fiduciary duty, this category will include claims where the firm failed to identify or manage a conflict of interest. The disclosure aspect includes claims based on what the firm should have disclosed and also what it should not have disclosed, such as breach of privacy claims.

**Theft & fraud** – Where the insured has been defrauded or had assets stolen. This category will include securities fraud, theft of assets or information, conversion, forgery, insider trading, account impersonation (social engineering). Theft & fraud losses can be divided into external (no employee involvement) and internal (employee involvement) related matters. Internal fraud claims can be further divided into two different categories. Firstly, there are claims where the insured has been the victim of the wrongdoing. For example, an employee stealing from the insured, or receiving bribes for the benefit of the individual, without the knowledge of the employer. By contrast, there are also claims where allegations centre on the insured itself committing the theft/fraud for the benefit of the company – such as tax evasion, or paying bribes with the knowledge of the company.

**Systems security** type losses include all events where the system security has been compromised by external malicious sources such as denial of service attacks, ransomware etc.

**Customer/ client account management** – This includes claims where the firm has suffered a loss due to incorrect client records or loss of client documents such as deeds or wills.

**Employment practices** - Claims/potential claims concerned with maintaining employer-employee relations. Includes claims related to compensation/benefits, termination, unfair treatment at work and other employment contract issues/disputes.



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