

Professional indemnity insurance

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A brief introduction to professional indemnity insurance.

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Overview

When professional people offer professional advice, they must exercise an adequate degree of skill and have enough information to make that advice reasonably safe to give. If they fail to do so they can be held liable for any loss or damage that results.

A professional indemnity policy is designed to offer protection to professional people against potential claims for injury or loss resulting from their actions, advice or failure to carry out their professional duties. For example, an investment consultant may give incorrect advice, resulting in financial loss to their client.

In recent years, there has been expansion in the provision of cover from traditional professions, such as solicitors and accountants, to include other advisers and consultants in fields such as the computer industry, telecommunications, education and healthcare.

Professional indemnity insurance is a specialised branch of liability insurance. There are no standard policy wordings.

Professional indemnity insurance is compulsory for many professions, either under statute (as in the case of solicitors) or as a regulatory requirement (as in the case of insurance brokers and financial advisers).

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Typical cover provided

A standard policy covers liability for injury, damage or financial loss arising from a breach of professional duty carried out in good faith or negligent acts, errors or omissions in their professional capacity. The persons covered by the policy include the insured, any employees/partners, any agent and any predecessors.

Other features of professional indemnity insurances are:

- a yearly aggregate limit of indemnity usually applies, including legal costs and expenses. However, some policies have an any one claim limit of indemnity with legal costs and expenses in addition. A limit of indemnity of at least £1,000,000 usually applies, although a higher limit may be requested by the insured
- cover is on a 'claims made' basis, which means that provided the claim is made during the period of insurance, it does not matter when the act giving rise to the claim took place. Before going on cover many insurers ask the insured for a declaration detailing any incidents which might potentially give rise to a claim
- unlike the other forms of liability policy, such as public and products liability, pure financial loss (where there has been no injury or damage) is specifically covered by a professional indemnity policy.
- insurers may impose a retroactive date where the insured has not purchased professional indemnity cover before. This excludes claims that result from acts which took place before that date
- many policies contain automatic extensions covering, for example, libel and slander, loss of documents, costs of defending intellectual property rights, ombudsman's awards and compensation for court appearances.

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Optional extensions

The optional extensions which are available include:

- collateral warranties
- cover for any other person or firm acting jointly with the insured
- continuation of cover beyond the date of cancellation in the event of the firm being wound up, to allow a period for claims to be made following negligent acts committed prior to the closure of the firm
- liability for breach of warranty of authority, in case an insured takes an action in good faith on behalf of a client which they are, in fact, not authorised to do
- fidelity guarantee

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Key exclusions

Professional indemnity policies contain a number of exclusions, including:

- a policy excess or deductible (usually a minimum of £500)
- death, injury or illness of employees
- damage to third party property, unless arising out of advice, design, specification or omission to perform a professional duty
- liquidated damages
- circumstances which might give rise to a claim which were known about prior to inception of the policy
- war
- radioactive contamination
- pollution of any kind

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Rating factors

The premium for professional indemnity insurances may be rated on the gross fees, gross revenue or the amount of indemnity. The rate charged will vary between professions and in relation to the individual insured's claims experience. Sometimes a premium per capita for each person the business employs is used.

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Product providers

Professional indemnity insurance is a specialised branch of liability insurance which is most commonly purchased as a stand-alone policy.

Cover is not offered by all insurers. Some composite insurers, as well as a number of specialist insurers and Lloyd's syndicates, underwrite professional indemnity insurance, with cover often being arranged through an insurance intermediary.

Specialist schemes exist for some professions.

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