

# PROFESSIONAL INDEMNITY

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# PROFESSIONAL INDEMNITY INSURANCE

## WHY YOU NEED IT

You pride yourself on your reputation and the quality of your work – but unfortunately, mistakes do happen. These can lead to disruption and unexpected costs to your business.

A well-structured Professional Indemnity policy is fundamental to the protection of any business providing professional services, advice, or designs to clients.

Professional indemnity insurance may also be required by some professional governing bodies and regulators, and contracts may stipulate minimum cover requirements. At Islands we work hard to understand your business and make sure that the advice and services your business provides are covered by the right policy, tailored for you.



## COVER AND BENEFITS

- Defence and Investigation costs arising from allegations, as well as actual acts
- Damages and costs incurred awarded against the policyholder
- Breach of confidentiality
- Defamation including libel & slander
- Dishonesty of employees
- Outside Directorship Liability
- Reimbursement of unpaid fees
- Mitigation costs to minimise or prevent a claim arising

## BUSINESSES THAT NEED PI COVER

Many professions require professional indemnity insurance, including:

- Accountants and Bookkeepers
- Trust Companies and Corporate Service Providers
- Fund Managers and Administrators
- IT Professionals
- Architects, Engineers and Surveyors
- Recruitment Agencies and HR Consultants
- Advertising and Marketing Agencies
- Independent Financial Advisors
- Management Consultants

## PROFESSIONAL INDEMNITY CLAIMS SCENARIOS

### BOOKKEEPER - PROFESSIONAL NEGLIGENCE

The Insured worked remotely as a bookkeeper for a company and used email for all correspondence.

The company's MD would send instructions to the Insured via email, including bank payments to be made on his behalf. The Insured received a payment request for large payments to be made totalling £35,500. This did not seem unusual to the Insured.

However it transpired that the payment request had not been sent by the MD. At first it was thought that the MD's email had been hacked by a third party, but in fact the email address had been cloned.

Source: Professional Indemnity Claims Examples | Qdos Contractor

### IT CONSULTANT - LOSS OF DATA

The Insured, an IT Consultant, sold a virtual server to a client, who in turn sold it on to their client. The Insured, however, retained responsibility for the provision of the 'back up' process to the end client. Some work was subsequently undertaken by a sub-contractor on the server, and as a result the end client lost 16 months worth of data.

The Insured had some liability as they were responsible for maintaining the back up process, which unbeknown to the Insured had failed.

The data was therefore irrecoverably lost and the end client originally demanded £15,000 from the Insured's client (to whom they were contracted) for the cost of reinstating the lost data.

Source: Professional Indemnity Claims Examples | Qdos Contractor

### PROPERTY MISDESCRIPTION

Claim made by purchaser of property, as property was detailed as having double glazing in estate agent's particulars, but there was no double glazing. Claimant is claiming cost of installing double glazing.

### LETTING AGENCY

The letting Agency did not obtain a guarantor when letting property. The tenant began to pay rent then defaulted on several payments. The landlord pursued the letting agent for the outstanding rent, as the tenant disappeared.

Source: Claim Examples - PI Export

### ARCHITECT FLAWED DESIGN

Architect sued by his client for the costs of rectifying an extension built from a flawed design. Insurer paid £22,500.

Source: <http://www.policybee.co.uk>

Disclaimer: Similar claims may not be paid depending on circumstances of the claim and the ultimate decision of the underwriter.

**SMALL BUSINESSES RISK BEING UNINSURED BECAUSE THEY DO NOT KNOW WHAT PROFESSIONAL INDEMNITY IS, OR HOW IT WORKS.**

<b>28%</b>	Don't think they need it
<b>12%</b>	Haven't heard of it
<b>40%</b>	Small businesses admit they don't have it, despite what it covers

Source: <http://www.policybee.co.uk>

### CONTACT US

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### DO YOU NEED PROFESSIONAL INDEMNITY INSURANCE?

#### 1. YOU PROVIDE

ADVICE  
OR  
DESIGNS  
OR  
PROFESSIONAL  
SERVICES



#### 3<sup>RD</sup> PARTIES

...and an error in your advice, calculation or design could result in a 3rd party bringing a claim against your company for their financial loss.

#### 2. YOUR CLIENT REQUIRES YOU TO...



HOLD AND MAINTAIN

PROFESSIONAL INDEMNITY  
INSURANCE

AS A CONDITION OF A  
CONTRACTUAL  
RELATIONSHIP

#### 3. THE REGULATOR & INDUSTRY ASSOCIATIONS...

Require you to hold  
**Professional Indemnity  
Insurance**  
because your business  
undertakes...

- i) regulated activity and / or
- ii) is a member of an Industry Association who insists upon it



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### -PRODUCED IN MARCH 2021 AT CURRENT MARKET CONDITIONS-

#### BACKGROUND:

Historically insurance companies and syndicates could release previous years' reserves based on their claims knowledge.

However, the position the insurers and syndicates are in is that these reserves are no longer available because they were released from 2017 / 2018 claims payments. With the release of reserves, insurance companies were in a position of profit over the last ten years. However, current insurance premiums no longer cover claims settlements.

#### THEN...

In 2018 Lloyds carried out their Thematic review which dictated that

- The 10 poorest performing syndicates are closed down
- The 10 poorest performing product lines are under the spotlight
- The review further highlighted that about two-thirds of Lloyds syndicates were in a loss-making position, and PI was one of the poorest performing product lines.

#### THE RESULT:

Lloyds instructed syndicates to cut their book and take a rate increase with the consequence that:

- Some syndicates shut down
- Others reduced their capacity dramatically as instructed by Lloyds
- Others said, 'We're out'

So, insurers and syndicates had to reduce the size of their account by 25-35%. These policies needed to be rebrokered back into the insurance market, with a significant reduction of insurers available to take on this risk.

#### PARADIGM SHIFT IN OPERATIONAL CULTURE:

Historically insurers made money through investments of their reserves and premiums, so you can understand that the release of these reserves to maintain the business now required that underwriting needed to become profitable.

#### WHY ARE CHANNEL ISLANDS MARKETS FINDING IT SO DIFFICULT NOW:

There were a few notable changes in the market in 2020, and examples here include:

- Argo, a large Lloyds syndicate who held a lot of risk in the Channel Islands market, ceased writing financial and professional risks
- AXA XL's PI book was scaled back in June, and closed in Oct 2020

When large carriers and syndicates restructured, it was simpler to rid themselves of offshore markets such as the Channel Islands.

#### WHAT DRIVES THE RATE INCREASE IN A HARD MARKET?

Offshore underwriters would historically not always win primary placement because of the competitive pricing in the market, and also because they rated the risks differently.

This position hasn't changed, and as such Offshore underwriters would be more expensive than the mainstream.

To a large degree, price increases in the hard market are a re-balancing of the product line's rightful value.

#### AND BROKERS?

What is vital is that brokers understand, and explain clearly to clients, the new policy wordings, clauses and expectations which is refined for the necessary cover. The opinion is that the hard market will be around for another year or two.

More than ever the position of the broker is invaluable because of how much underwriters and insureds alike will rely on their expertise and knowledge.

#### WHAT CAN YOU DO TO BE PROACTIVE?

- Start your renewal process early;
- Present your risk to the best of your ability;
- Stay in contact with your broker (before and during the renewal process);
- Be prepared and ensure financial resource is available to account for possible premium increases.

Source: Sapphire Underwriting

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