



# Preparation is key

Glance through any national newspaper or magazine these days and you will often see claims and litigation being brought against companies and individuals. This does not necessarily reflect poorer levels of advice or service, says Marilyn Greening, Associate Director of Sydney Charles Insurance Advisers, but rather a change in attitude whereby launching a legal action is far more likely than it would have been even a few years ago

## What is Professional Indemnity Insurance

Understanding what constitutes Professional Indemnity (PI) Insurance and ensuring that the correct cover is in place is of crucial importance to any business offering advice or service. The cover, which is also known as Errors and Omissions Insurance (E&O) indemnifies you for claims made by third parties (often clients) seeking compensation for financial loss resulting from errors or negligence arising from the provision of professional services. A PI policy meets the costs associated with defending any actions and any damages awarded.

## Why is Professional Indemnity Insurance so important?

A growing number of professional bodies and regulators require their members to maintain PI. These include lawyers, accountants, surveyors and insurance brokers. This is for 'investor protection'. Contractual requirements to have this cover is also becoming commonplace, particularly in the construction industry.

For any provider of professional services, it is extremely important to maintain a PI policy, whether or not it is contractually required. The policy ensures balance-sheet protection in the event of a large and costly claim (or series of claims), as well as the reassurance that the insurer, with appropriate legal assistance, will step into your shoes and defend any actions, allowing you to continue with your business.

## What limit of indemnity should I have?

Discussing your business's specific work areas and arrangements is key to arranging an effective PI policy. All well-run companies assume that they will not sustain claims, or that, when claims happen, they can be defended. But with spiralling legal costs and increased litigation in business generally, setting the right limit to cover costs is important.

One factor to bear in mind is that PI policies are generally provided on a 'claims

made' basis. This means that cover is in place for claims made against you during the period of the policy. Unless there is a restriction, these could stretch back many years. If you do not renew your PI policy, there is no further cover. Should a business cease trading, it is wise to consider a multi-year policy to provide cover for claims arising during the time that it was active. This is referred to as a run-off policy.

The limit of indemnity can also be offered on an 'any one claim' basis. This means that, once you have a claim, the full limit is in place for any further, unconnected actions brought in the same period. Alternatively, an aggregate basis can be used which means that once the limit is exhausted, there is no further cover. Whilst the 'any one claim' limit is preferable, it is not available for all professionals and is more expensive than the aggregate option.

## What is Directors' and Officers Insurance?

This type of insurance provides indemnity for costs and damages in defending allegations of breach of duties by the directors or officers of your company should a legal action be launched against you. In effect, it is a management errors and omissions policy – sometimes referred to as 'Management Liability Insurance'.

A D&O policy indemnifies the director for his/her personal liabilities and also reimburses the company where it can or is legally permitted to indemnify the directors.

## When do I need D&O insurance?

Any company in the private or public sector, charity or association that has directors, governors or trustees, needs D&O insurance. Non-executive directors often insist that this cover is in place before they accept a position on the board.

## Why should I have this cover?

Directors can be held personally responsible for wrongful acts committed or alleged. Potential litigants can be shareholders,

employees, clients and regulators. Without D&O cover, directors may be left on their own to defend such claims, putting at risk their personal assets. Whilst the largest claims are usually brought by shareholders, the courts are also littered with actions against companies and their directors for employment practice issues. The costs of investigation by regulators/professional bodies and government organisations are also rising.

## What limit do I need?

This area is best resolved after talking to our advisers. If you are a private organisation, limits of £1m to £5m. are generally purchased, but larger companies or those in more litigious industries such as the pharmaceutical, financial services or technology sectors, need to consider higher limits. In those cases, anything from £5m to £50m is commonplace.

"We have experience in creating policies for lawyers, accountants, tax specialists, investment managers, experienced investor funds, public companies on UK and US markets, hedge funds and much more. Sydney Charles advisers have also helped architects, trust companies, property managers and engineers, together with contractors," says Marilyn.

For a free review and further details or advice, please contact her on 01481 739970 or email [marilyn.greening@sydneycharles.co.uk](mailto:marilyn.greening@sydneycharles.co.uk)



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