

Professional Indemnity FAQ

Q What is it?

A A policy that protects a contractor against negligence in the provision of professional services

Q My client subcontracts all professional work to third parties. Is it still required?

A Primary liability will attach to the contractor. Once it has settled the matter with the client it can attempt to subrogate against the negligent third party. Subrogation is rarely straight-forward. The contractor may be held partly responsible or the third party may become insolvent or breach the terms of its own PI cover.

Q Is everything a contractor does covered?

A Design & Construct is perhaps the only class of PI insurance where the activities covered are specified within the wording. Typically these are:

- a) design or specification (e.g. work carried out by an architect or engineer)
- b) supervision of construction (e.g. work carried out by a project co-ordinator)
- c) technical information calculation (e.g. work carried out by an engineer)
- d) surveying (e.g. work carried out by a chartered quantity surveyor)

Q My client only undertakes works where he constructs from designs supplied by his client and under another's technical supervision. Is PI cover required?

A Design alterations, design checking services, temporary works and duty to warn are all areas which can result in claims being made against the contractor.

Q What limits of indemnity are available?

A The limit of indemnity available is £50,000 in the aggregate

Q What level of excess applies?

A The excess is £500 for each and every claim

Q Does the excess apply to costs and expenses in defending a circumstance where no claim is paid?

A The excess does not apply in this circumstance

Q Claims made?

A Claims and circumstances made is a more apt description. It is the policy in force at the time that :

- a) a claim is made or intimated
 - b) a circumstance that could give rise to a claim is intimated
- against an insured that responds and not the policy that was in force when the work was undertaken or when the error occurred

Q Retroactive date

A A limitation in relation to past negligence. Where a date is specified, the policy will only respond to work undertaken on or after that specified date. We only cover services performed after the inception of the first policy issued by Trade Direct & Zurich

Q What is the extent of supervision cover under the policy?

A Very little! Initially, Insurers paid many claims for faulty workmanship under the guise of negligent supervision. Supervision was therefore excluded wherever an insured acted in their capacity as a contractor – i.e. where they supervise their own work or that of their subcontractors.

Q Is cover available for adjudication awards?

A Yes – decisions made by an adjudicator in accordance with the Scheme for Construction Contracts as contained in the Housing Grants Construction and Regeneration Act 1996 which may otherwise have been the subject of indemnity under the policy are covered. Due to the fast-track nature of the process, notification to Insurers is required immediately, usually within 48 hours. It is important that the adjudication provisions within a contract do not breach the policy conditions, for example not allowing the adjudicator's decision to finally determine the dispute – the insured must not compromise any right of appeal.