AN INTRODUCTION TO PROFESSIONAL INDEMNITY INSURANCE (PII)
This document is intended to provide general guidance only. You should ensure that you understand your policy terms and conditions as they will vary and they will take precedence over any guidance offered in this document.

What is Professional Indemnity insurance?
Professional Indemnity (PI) insurance protects your business against claims for loss or damage made by a client or third party. Claims will arise when it is alleged that you have been negligent in the course of providing a service. It is not necessary for you to receive a fee in respect of the provision of that service for an allegation to arise. In addition to covering the cost of the claim, providing it settles at an amount above your self-insured excess, PI insurance will also cover the legal and defence costs associated with resolving or defending a claim. However, this will typically only apply where a claim settles for a sum above the self-insured excess.

Is PI insurance mandatory?
PI insurance is mandatory for members of various professional bodies including, but not limited to, the Royal Institution of Chartered Surveyors (RICS), the Institute of Chartered Accountants in England and Wales (ICAEW) and for firms regulated by the Financial Conduct Authority or the Solicitors Regulatory Authority. Where requirements are not mandatory, professional bodies and membership organisations may make recommendations as to the cover you should buy. You should familiarise yourself with the requirements of the relevant professional body or regulator.

You must also ensure that your PI insurance complies with the requirements specified in any contracts you are party to and that it is set at a level acceptable to your clients and/or potential clients.

Do I have to be insured by a specific insurer?
Some professional bodies, for example the RICS, will require you to be insured with a specific insurer, however, most firms will be able to choose their insurer based on their own criteria e.g. cost, breadth of cover. You should be aware that the range of insurers available will depend on the risk profile of your business.

The highest risk firms, for example, may only have a choice of two or three insurers. The range of insurers available to you will also, to some extent, be determined by the broker you use. Some smaller insurance brokers may only do business with two or three insurers whilst larger brokers, like Howden, will have relationships with the majority of PI insurers.

What is the limit of indemnity?
This determines how much the policy will pay out in the event of a claim. A £1m limit of indemnity will pay out up to £1m in total (aggregate) or up to £1m for each claim (each and every claim, also known as any one claim). The limit of indemnity must be read in conjunction with the statement regarding the basis of cover e.g. each and every claim/any one claim or in the aggregate.

Some professional bodies will require you to maintain a minimum limit of indemnity and this may vary according to your fee income. RICS, for example, requires regulated firms generating under £100,000 of income per annum to buy at least a £250,000 limit whilst firms generating in excess of £250,000 fee income must buy a minimum limit of £1m.

What does ‘each and every claim’ mean?
‘Each and every claim’ means that your policy will pay up to the limit of indemnity you are insured for, on each claim you have in any one policy year. Aggregate means that your policy will only pay up to the limit of indemnity you are insured for regardless of how many claims you make in any one year.

What is an excess?
An excess represents the figure that you will contribute towards any settlement arising from a claim against your insurance policy. For example, if your policy has a £2,500 excess, your firm will have to pay the first £2,500 of any successful claim. It is very important that you maintain an affordable excess.

What is adequate and appropriate cover?
The following factors should be taken into consideration:
- Where available PI insurance should be purchased on an ‘each and every’ claim basis rather than an ‘aggregate’ basis. For some higher risk professions, for example Financial Advisers, an ‘each and every’ claim policy may not be available.
- The policy wording should be as comprehensive as possible, thus giving you and your clients as much protection as possible. As a minimum, you should ensure your policy is written on a full civil liability basis.
- The level of indemnity you buy must comply with any requirements laid down by your regulator or professional body and should be in line with reasonable client requirements. It should also take account of the maximum possible loss your business is likely to suffer. If, for example, you are routinely involved in projects or transactions where the total value exceeds £5m, then a limit of £500,000 is unlikely to be sufficient.
- The policy should cover the work of past and present employees and any predecessor companies.
- For most professions, the policy should be ‘fully retroactive’.

If you need assistance understanding any aspect of your policy wording, you should speak to your insurance broker.

What does ‘full civil liability’ mean?
Civil liability covers you for any negligence claim brought against you in a civil court. Cover is not provided for claims brought against you in a criminal court.

Can I change the level of indemnity part way through the policy year?
If you are a Howden client, then, yes in most cases you will be able to increase the limit you purchase, however it will impact your premium. The process might not be so straightforward for smaller firms using other insurance brokers as some products will limit the level of indemnity you can buy.
What does ‘fully retroactive’ mean?
Wherever possible a ‘fully retroactive’ policy, denoted by the statement ‘retroactive date of none’, is preferable to a policy with a retroactive date of inception. If the retroactive date of the policy is stated as ‘none’ then liabilities arising from all work carried out by the firm since establishment date including work done by all past and present partners and/or directors, members and employees will be covered providing the policy conditions are met.

What is ‘claims made basis’?
PI insurance policies work on a ‘claims made basis’. This means the policy covers claims that are first made against the insured during the period of insurance regardless of when the negligent act occurred.

How much does PI insurance cost?
A few hundred to millions of pounds. Ultimately it will vary from firm to firm and will be impacted by a range of factors from the type of work done, to turnover, to the limit of indemnity required. Broadly speaking, PI insurance premiums are calculated by allocating a rate to each discipline undertaken by a business, according to the risk associated with that discipline. The higher the perceived risk, the higher the rate and the more expensive the insurance.

How long does a PI insurance policy last?
PI insurance policies are generally annual, but extended policies can sometimes be arranged.

How do I pay for PI insurance?
There are a number of options available for payment: cheque, BACS transfer and regular instalments via Direct Debit. If you choose to pay by instalment you should be aware that the interest rates available will vary from one broker to another.

My business is regulated and/or I am a member of a professional body, do I have to use a specific insurance broker?
At the time of writing neither the ICAEW, SRA, RICS or FCA requires member/regulated firms to use a specific insurance broker. Howden look after clients operating across all professional sectors.

How does the quote process work?
It will vary from broker to broker. When you take out or renew PI insurance, you will always have to provide information on your business which will include an overview of the work you undertake and the turnover generated and/or forecast. You generally submit this information on a proposal form which may be completed either electronically or in hard copy. You may also be required to submit additional information to that required in the proposal form, for example start-up law firms will be required to submit CVs for all partners/directors and a business plan.

It is important that you respond accurately to any requests for information about your business. Failure to do so may result in your policy being cancelled or a refusal by insurers to settle a claim.

The information you provide will then be used by brokers to source quotes from Insurers. The length of time it takes to secure quotes will vary according to the complexity of the business and the nature of the work undertaken. For smaller firms operating in low risk areas, it may be possible to complete the entire process (quote through to cover commencing) in as little as ten days but the process can take as long as three months for multi-million pound turnover businesses. Ideally you should allow at least six weeks to complete the process.

For further information please contact us on 020 7133 1300

EXAMPLE OF A PROFESSIONAL INDEMNITY CLAIM
A firm of Accountants was asked to extend their client’s reporting period. Due to an administrative error, the reporting period was actually shortened rather than extended. This resulted in the Accountant’s client missing the filing deadline and incurring a filing penalty.

A claim was made against the Accountancy firm and subsequently settled at below the firm’s self-insured excess.

WHAT IS INSURANCE PREMIUM TAX (IPT)
IPT is a tax levied by the government on insurance premiums. In January 2010, it was raised to 6%. IPT is noted separately on the insurance quotation and cannot be claimed back in the same way as VAT.

EACH AND EVERY CLAIM VERSUS AGGREGATE
If you purchase a £1m each and every claim limit and you notify six different claims of £200,000 each, the policy will (subject to the policy conditions being met) respond. If you purchase a £1m aggregate claim limit and you notify six claims of £200,000 each, the first five claims notified will be covered, the final claim will not as the £1m limit has been exceeded.
The Howden Professional Indemnity division is one of the UK’s most respected and experienced Professional Indemnity Insurance (PII) broking teams. We have the expertise to look after businesses operating across a range of sectors and territories. We look after some of the UK’s leading firms operating in the Legal, Accountancy, Financial, Property and Construction sectors.

CONTACT US
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