

Professional Indemnity Insurance Guidance

1. The Professional Indemnity Insurance ["PII"] Regulations make PII compulsory for Individual Members and set out the minimum requirements acceptable to the Insolvency Practitioners Association. **However, you are strongly advised to obtain a greater level of cover and to take advice from your insurance broker.** You should also review the extent of the cover available, since some policies will, for example, include legal costs within rather than in addition to the limit of the indemnity cover.
2. Most PII policies provide for a minimum level of risk, known as "excess", to be borne by the insured. You should consider both your firm's and your own personal resources when deciding what level of excess is appropriate for you. The maximum excess provided under these Regulations is £20,000 per Principal (as defined by the PII Regulations).
3. From discussions with underwriters, it is considered that there is currently sufficient competition in the PII market for all Members to obtain an adequate level of PII cover on relatively competitive terms. However, should you, for any reason, find it impossible to obtain minimum cover, or if insurers decline insurance or attempt to avoid your policy, you must bring this matter to the attention of the Secretary of the Association without delay. You will be obliged to give full information to the Membership and Authorisation Committee, who will then consider the consequences.
4. Failure to obtain and maintain PII cover may also invalidate your Insolvency Bond and thus your ability to act as an Insolvency Practitioner.
5. Almost invariably, PII policies are written on a claims made basis, which means that the insurance will provide cover for claims first made or circumstances arising and notified to the insurers during the term of the current policy, irrespective of when the activity giving rise to the claim occurred. It is therefore important that, assuming (which is usually the case) that the policy provides such cover, the policy remains in force to provide protection against any claims which may arise in the future for work done in the past.
6. If you are an Individual Member in partnership with others, or you have an arrangement where you are covered by another Professional Practice's PII policy, you must ensure that the PII cover provided by such policy or policy or policies is adequate to cover the requirements of these Regulations as they apply to you.
7. Gross Fee Income, as defined in the Regulations, should be based on the most recently completed accounting year immediately preceding the start of the policy. If you are commencing practice, you should give your broker your best estimate of your anticipated Gross Fee Income or ensure that he is provided with such information by the person responsible for such matters within your firm.
8. You should ensure that your PII policy includes fidelity insurance to cover any dishonest acts or omissions of principals employees and subcontractors in a manner and in terms not more limited than those contained in the approved minimum wording. The minimum policy wording must also be written on the basis that former-partners, and employees and subcontractors are covered.
9. Run-off cover for retiring Insolvency Practitioners may be provided under the PII of a continuing practice or you may need to take out an individual policy. Either way, you should personally check with your broker that you would be covered if any claim were made after you have retired from practice in

respect of work done while you were in practice. If your former or successor practice has agreed to include run-off cover for you in its current cover, you must provide full details to the Association, who will need to be advised of any changes during the minimum six-year period. You will be responsible for taking out a new policy in the event of any run-off cover lapsing during the six-year period.

10. If you transfer from one practice to another, you must satisfy the Association that the PII cover remains in place for the work you carried out at your former firm. This should either be by having the old practice confirm that their PII policy will cover any claims made for a period of not less than six years or that your new PII cover will accept responsibility for a similar period. It is important to ensure that, on changing firms, there is no gap in the PII cover and you may be asked to confirm to the Association the terms of any leaving agreement.
11. If your existing practice merges or breaks-up into small firms, you are required to ensure that there is no break in the existence and level of PII cover and to provide appropriate confirmations to the Association. You must ensure that, on a merger or split or any other alteration to the practice, there continues to be an adequacy of cover in accordance with the Regulations.
12. Self-certification of your PII arrangements will be requested by the Association as an item of your renewal of your Insolvency Authorisation. For the purposes of inspection, you will be asked to make your PII policy available to our inspectors. Alternatively, you may obtain from your insurer a certificate setting out the basic details of your cover including the sum insured per claim and in aggregate, the period of insurance, the names of the principals in the practice, the commencement of the insurance period, the amount of the excess and any specific instructions or conditions attaching to the cover. The Association may check with your brokers or insurers that the information is correct.
13. If you become aware of a claim or circumstances which might give rise to a claim falling under your PII policy, you are required to notify your insurers promptly since failure to do so could seriously prejudice your or your firm's rights and entitlement to indemnity under the policy. You should not wait until there have been developments or delay pending the completion of a detailed report of the matter.
14. The existence of claims or circumstances should be regarded objectively and insurers notified immediately even if the allegations are vague or unspecified and regardless of the fact that you think liability is unlikely. It is considered good practice to have a review of potential PII claims as an agenda item for partners' meetings and prior to the renewal of PII cover, a circular sent to all partners and senior staff requiring confirmation that they are not aware of any claim or circumstance which might give rise to a claim. Your broker may well be able to provide you with a claims handling / risk prevention booklet to assist in this respect, in which case it should be obtained and its advice adhered to.
15. In consultation with your broker, you may wish to think about the following issues when deciding whether a PII policy is suitable for your purposes:-
 - 15.1 The sum insured per claim and in the aggregate?
 - 15.2 The excess?
 - 15.3 What does the policy cover?
 - 15.4 Does the policy cover dishonest acts of principals and employees and former principals and employees?
 - 15.5 What triggers coverage - claims, notice of intention to claim, or circumstances arising?
 - 15.6 Is there a provision in the policy covering a claim "series" i.e. claims arising from the same or a series of acts or omissions?
 - 15.7 Are there any exclusions or conditions breach of which might entitle the insurer to avoid the whole policy?
 - 15.8 What are the notice requirements, and consequences of late notification?

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- 15.9 What are the complaint handling requirements?
16. You should avoid having double insurance.
17. It is suggested that you provide your brokers with a copy the IPA's Regulations, Guidance Notes and with any IPA approved minimum terms for PII policies, as may be published from time to time, and ask them to confirm that your PII policy meets the minimum requirements laid down by them .