



— BACK TO — BASICS

article two : “Claims Made” Cover

A SERIES OF ARTICLES THAT PROVIDE THE FUNDAMENTAL
PRINCIPLES OF PROFESSIONAL INDEMNITY INSURANCE

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"Claims Made" Cover

One of the key differences between your Professional Indemnity Insurance (PII) and most other insurance policies that your company may hold (i.e. Employer's Liability or Public Liability), is the fact that PII cover is provided on a "Claims Made" basis.

What does "Claims Made" actually mean?

In simple terms, when you receive a claim from the Client, it is the policy in force at the time the claim is made that would deal with the claim, rather than the policy which was in force at the time the alleged error or omission occurred.

By way of example, you provide a service to the Client in 2013 who subsequently becomes unhappy with the service, and they bring a claim against you in 2016. In such instances, it would be the policy in force in 2016, not 2013, that would respond to the claim.

As such, it is important to ensure that you maintain Professional Indemnity Insurance to cover your liabilities long after the services have been provided to the Client, as claims can arise years after the work has been completed.

What do I actually need to refer to Insurers?

All policies will contain a definition of what amounts to a "Claim" against your company, and this is likely to vary between different Insurers. As a general rule, a Claim can often include:

- Legal or Arbitration Proceedings.
- Regulatory Proceedings.
- A written demand for compensation from the Client.

However, Professional Indemnity policies will usually contain conditions that extend the cover to include "Circumstances" which are often defined as any matter which "... is likely to ..." or "... may" give rise to a claim. In effect, "circumstance" is the insurance jargon term for any potential claim against your company.

We appreciate that what amounts to a "circumstance" can be hard to pinpoint. However, while there is no hard and fast rule, a circumstance could arise when:

- You become aware of an error in the Services.

- The Client expresses some dissatisfaction with the Services provided.
- A dispute arises over any unpaid fees.

While you may not believe that these matters will result in a claim, it is important to ensure that they are referred to your Insurers when they arise as this can have an impact on whether or not the claim is accepted.

Key Points

- Professional Indemnity Insurance is provided on a 'Claims Made' basis;
- The Policy will also generally provide cover for Claims and Circumstances;
- It is important to keep the basis for cover in mind when considering long term plans for the company;

We at MFL Affinity are here to assist in all matters relating to your Professional Indemnity Insurance. As such, we have a dedicated in-house Claims & Risk Management team who are available to provide advice and assistance when determining whether or not something needs to be referred to your Insurers and they can be contacted on the details provided.

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- Professional Indemnity Insurance—rough guide
- Claims Made
- Notifications
- Settlement & Insurers Approval
- Duty to Cooperate
- Disputes & the Control Clause
- Reservation of Rights

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