



# — BACK TO — BASICS

## article seven: Reservation of Rights

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

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# Reservation of Rights

**From an insurance perspective, one phrase that we hope to never see in connection with a claim is “Reservation of Rights” or “ROR” for short.**

However, an ROR can come in one of two flavours, and we will consider each in turn:

## General Reservation of Rights

Unfortunately, as the world has become increasingly litigious and the number of people prepared to complain (justified or otherwise) seems to be increasing with alarming regularity, a significant number of Insurers have started to rely on Solicitors to assist in dealing with the claim.

The side effect of the work being outsourced is that the appointed Solicitors try to make sure that they cannot be seen to agree to anything on behalf of the Insurers. As a result, following the initial notification of the claim an increasing number of them will raise a “general!” ROR. In effect, this simply means that they are not prepared to comment on the policy response until they have had an opportunity to review the facts of the matter and take instructions.

Given the nature of this type of reservation, it is rarely more than a procedural step which is unlikely to impact on the cover once the Insurers and the Solicitors have a better understanding of the claim.

## Specific Reservation of Rights

However, the situation is very different if, after investigating the matter, the Insurers and/or their Solicitors raise a specific reservation of rights in relation to a specific matter under the terms of the policy. This means that the initial investigation into the claim had identified an issue which could impact on the cover being provided under the policy.

As an example, Company A have notified a Claim to their Insurers. While this has been initially accepted, on reviewing the complaint, it is established that the complaint may relate to the provision of Services that could fall outside the Professional Business as understood by Insurers. As a result, while they investigate this further, their representatives raise a ROR in relation to the potential non-disclosure of information.

In most cases, the issue that gave rise to the ROR can often be resolved with a little further digging into the matter which would result in the ROR being lifted and cover being confirmed under the policy. However, in a small number of cases, the investigation does highlight a serious issue which could give Insurers the right to not only decline the claim but also cancel the policy.

In the unlikely event that this situation arises, our Claims & Risk Management Department will be on hand to provide advice and assistance in dealing with the Insurers investigation, the implications of the ROR on the claim, the policy and your company.

If you would like to discuss any of the issues raised in this or any of the previous briefings please do not hesitate to contact us.



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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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