



— BACK TO — BASICS

article eight: Retroactive Dates

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Back to Basics – “Retroactive Dates”

While the key dates on your professional indemnity insurance policy will be the start and end of that particular policy period, another important date that can impact on your position is the ‘retroactive date’.

As part of the insurance proposal process, you will be asked for a breadth of information about your practice/company to give the insurers sufficient information upon which to base their premium/terms. This information will include the date you commenced providing services, and often the length of time which you have continuously purchased the cover.

In the majority of cases, this is simply noted and cover is provided for the entire period you have been trading. However, there can be exceptions to this rule that can have a significant impact on the cover being provided to you.

What is a retroactive date?

The effect of the retroactive date is to exclude any claims arising out of work undertaken before that specified date.

For example, you may have taken the decision not to buy Professional Indemnity Insurance in the early stages of the business, or there may have been a break in the cover obtained by the practice/company. When you look to start or reinstate cover, Insurers may seek to place a retroactive date on the policy which is usually the start date of the new policy.

As a practical example, the practice/company started trading in 2008 and offered services to the public from this time. Due to financial or other circumstances, the decision was made not to continue cover, with the last policy lapsing in 2016. However, business has now picked up and you are looking to reinstate cover. A new policy is set up from 1 January 2018 but, due to the break in cover, the policy is subject to a retroactive date of 1 January 2018.

What does this mean?

Returning to the previous example, the new policy is in place and in February 2018 you receive a letter from a previous client raising a claim in connection with work undertaken in 2014. As professional indemnity insurance is a ‘claims made’ policy, i.e. it is the policy in force at the time the claim is made which would respond to the matter, such claim would be against the current policy rather than the one in place at the time the work was done and should be reported to current Insurers. However, as the policy excludes any work undertaken before 1 January 2018, the claim would not be accepted under the policy.

It is important to note that the fact that a potential claim may be uninsured does not affect the fact that a claim has been made against you. As a result, you will still be required to respond to the claim and may potentially have to fund the settlement of the claim and the associated legal costs.

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What can be done?

Depending upon circumstances, insurers are generally agreeable to extending the cover under the new policy to include all previous work undertaken by you.

As you will appreciate, accepting a larger period within which potential claims can arise increases the chances of a claim being made; Insurers are therefore likely to charge an additional premium to remove the retroactive date (e.g. an additional one off payment of 50% of the original premium).

Whilst premium cost is a consideration, given the potential ramifications should a claim arise out of any previous work, we would always recommend that an option to extend the cover is explored and accepted.

If you would like to discuss the issues raised in this article or if you have any questions about the Services we provide please contact:



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