

BUYERS' GUIDE TO PROFESSIONAL INDEMNITY INSURANCE

1. GUIDANCE

1.1 This guidance is to help you to make an informed choice when purchasing professional indemnity insurance and to use the market effectively.

2. AUTHORISATION AND PRACTICE AREAS

2.1 Your entity is able to practise only in the reserved legal activity/activities in which CILEx Regulation has authorised you. The reserved areas are litigation, advocacy, probate, conveyancing and immigration.

2.2 You are under an obligation to make your insurer and/or broker aware of the reserved area(s) of law within which you have obtained authorisation from CILEx Regulation.

2.3 It is **important to note** that if you provide legal advice in a reserved area of law in which you have not obtained authorisation disciplinary proceedings may be taken against you.

3. USING A BROKER

3.1 Whether you use a broker to source your insurance is an individual business decision that you should make taking into account all of your circumstances. A broker can help you purchase competitive professional indemnity insurance.

3.2 Upon instructing a broker he/she should provide tailored advice on the suitability of accepting a quotation from a particular insurer.

3.3 A specialist professional indemnity insurance broker will be able to use his/her knowledge and experience to your advantage by presenting your entity in a suitable way to insurers.

Financial Conduct Authority (FCA) register

3.4 The FCA register is a public record of all the bodies and individuals that are regulated by the FCA, including professional indemnity insurance brokers.

3.5 You can search the register for information on all brokers that are authorised by the FCA providing products or services in the UK. You should note that the FCA will only tell you whether or not a broker has been given permission by the FCA to carry out regulated activities.

British Insurance Brokers' Association (BIBA) search facility

- 3.5 BIBA is a general insurance organisation representing the interests of insurance brokers, intermediaries and their customers. You can search for brokers on its website, or you may call BIBA directly on 0870 950 1790 to discuss your requirements.

Which insurers can your broker approach?

- 3.6 You should ask a broker if they will give you advice about which insurers to approach that are suitable for your entity based on a fair analysis of the market. It is important that you understand in advance which insurers a broker will be able to approach on your behalf and if they have any arrangements that tie them to particular insurers only.
- 3.7 You should carefully consider the level of access to insurers that any prospective broker has. While some brokers deal directly with a number of different providers so they can best cater for all entity types and sizes, some have a commercial agreement with a single insurer, known as a tied arrangement (exclusivity).

Broker's access to the market

- 3.8 You should ask enough questions to determine whether a broker (or an intermediary) is able to access insurers that are prepared to offer appropriate cover taking into account your entity type and size.
- 3.9 By asking these questions, you may realise that you need to use a different broker or a different part of the intermediary chain to gain access to a wider range of insurers.
- 3.10 Under FCA regulations, before the conclusion of an initial contract of insurance a broker must advise you as to whether he/she is:
- under a contractual obligation to conduct business exclusively with one or more insurers; or
 - not under a contractual obligation to conduct business exclusively with one or more insurers but does not give advice on the basis of a fair analysis of the market.
- 3.11 It is recommended that you ask these questions before you decide whether or not to instruct a broker, so that you fully understand which insurers they will be approaching on your behalf.

Execution only service

- 3.12 If you are using a broker you should know whether or not they will provide an execution only service or an advisory service.
- 3.13 Execution only brokers do not advise you on the market or how best to present your entity to insurers, they will only place your cover. They are also often tied to a particular insurer.
- 3.14 If you are paying a broker to perform an advisory role, they should give you independent professional advice and assistance in preparing the best package to send to an insurer, as well as telling you if you should contact any other brokers in order to access the entire market. They may also inform you about market conditions and advise you about how best to apply for professional indemnity insurance or about making significant changes to your business (e.g. restructuring).
- 3.15 Brokers have a duty to inform you of these limitations, however, you should seek clarification from a broker if you are unsure about any of these relationships.
- 3.16 Do be aware that some advisory brokers may still be tied exclusively to one or more insurers. You may have to instruct other brokers on an execution only basis to access your full market.

Brokerage fees

- 3.17 Brokerage fees are dealt with in more detail under paragraphs 4.8 to 4.11 below.

4. COSTS

Paying your premium

- 4.1 Most insurers will require you to pay the whole premium before they will confirm cover. You may be able to pay your premium by instalments or obtain finance to pay your premium. You should ensure that these arrangements are in place before the policy comes into effect. If you are dealing with an intermediary, you should ask if they offer a premium financing service that will allow you to spread payment of premium across the year, or approach your insurer directly to negotiate payment options. Alternatively, you may be able to obtain finance from a premium finance company and pay off the loan by instalments.

Run-off costs

- 4.2 If you decide to cease practising without a successor practice taking over your business, the insurer will be required to provide six years' run-off cover in

accordance with the minimum wording of insurance. This will cover claims made against your entity after it closes.

- 4.3 You should ask what the insurer charges for run-off premium, even if you are not considering closing down your practice during the indemnity year.
- 4.4 It is **important to note** that you must pay the premium for run-off within three months, otherwise the insurer will have the right to revoke the cover and you will be in breach of your regulatory rules. You may be able to obtain finance from a premium finance company to help with a loan to pay this premium by instalments.

Extended Indemnity Period and Cessation Period costs

- 4.5 Neither your broker nor your insurer is under an obligation to provide you with renewal terms either now or for future indemnity periods. If you are unable to obtain insurance on the open market, your previous insurer will have to provide you with a 30-day extended indemnity period (EIP), a 60-day Cessation Period and then six years of run-off cover. Some insurers may charge additional premiums for the EIP and you should be aware of the costs of this cover when you obtain professional indemnity insurance quotations.
- 4.6 You should also ask what level of premium your insurer will charge if your entity is unable to obtain insurance at the end of the indemnity year and must enter the EIP.

Insurance Premium Tax (IPT)

- 4.7 You should ask if the quote includes insurance premium tax (IPT). You should not be charged IPT on any brokers' fees.

Fees and commission

- 4.8 You should ask your broker how much they charge and what forms of remuneration they will receive from the transaction. You have a right to request this.
- 4.9 If there is more than one broker involved in the chain in the purchase of your professional indemnity insurance, this might increase the amount you pay in total if each broker charges you commission.
- 4.10 FCA regulations only require brokers to disclose details of the amount of commission they receive from insurers if a client asks them to do so. Once asked, a broker must disclose all types of remuneration from any arrangements it may have.

- 4.11 It is recommended that you ask for this information as it will allow you to make an informed decision about whether or not your broker is delivering to you the level of quality service and value that you would expect for that level of remuneration.