



## How to avoid professional negligence claims

### Ideas and tips to control the level of PI insurance premiums and risks

*This sheet contains a summary of all of the ideas on this topic contributed by those who have heard me present this talk recently. Thanks to all those who contributed.*

- Good internal reporting procedures at ALL levels to keep down claims and potential claims
- Disclose all the potential problem areas to the insurance company
- Active risk management
- Ensure all staff are aware of PI policy terms – eg: pay late return penalty = admitting liability = invalid insurance (as with motor car insurance)
- Keep staff up to date with what is required: staff need to notify senior when a claim is a possibility.
- Use specialists when necessary
- Report everything to insurers at the earliest stage
- Consider de minimis issues relating to fines and penalties. Need a firm's policy and notification system
- Communication of policy obligations to staff
- Deal with all complaints from clients at the earliest opportunity to nip any possible claim in the bud.
- Control who in the firm is authorised to advise and re-iterate this annually
- Ensure adequate procedures in avoid exposure to litigant clients and report any 'threats' or complaints
- Clarify 'grey' areas with insurance company
- Make sure that all staff know they must advise us of potential claims
- Email staff pre-renewal to see if any circumstances exist that could give rise to a claim
- Get the PI partner to do a presentation to all staff members covering FAQs
- Read the Full Policy and ensure that all staff understand it.
- Encourage a 'no-blame' culture within the firm so everyone comes forward EARLY with any problems, rather than trying to hide the position (whereupon sod's always says it will fester!)
- Written control procedures eg: for claims
- Internal training
- Minimise claims and complaints
- Honesty
- The maintenance of staff CPD
- Hold/Cold file reviews
- Specialised staff where appropriate
- Ensure sub-contractors have their own PI cover
- Know your limits
- Confirm advice in writing
- Have a competent partner who deals with the insurance company



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- Ensure all staff are aware of information required by the insurance company for the policy
- Monitor excess levels and the effect of these on insurance premiums
- Avoid clients who may give rise to claims
- Get staff to notify any errors – be aware that many staff are reluctant to disclose for fear of a ‘bollocking’
- Ensure partners agree re any excess amount that the practice will pay and agree that amount with the insurers, and compare quotes with and without the excess
- Employ qualified staff and partners
- Vet current and potential clients
- Limit the work you do to the work you know
- Find a good broker
- Comply with insurers requests
- Discuss with them what they want and what we expect
- Educate all professional staff
- Check the policy small print
- Ensure that procedures set out in office manuals are complied with
- Encourage no fear and no blame culture for staff
- Read *Slattery v Moore Stephens* 2003 EWHC 1869 CA (It is motivating)
- Manage riskier assignments by limiting the engagement to areas of my expertise
- Keep an ear out for what staff are discussing with clients
- “Don’t let the client’s problem become my problem”
- Advise broker that we issue letter of engagement to all clients;
- Always get more than one quote;
- Annual review and regular discussions with directors/staff re potential claims;
- Annual independent professional work and standard reviews;
- Appropriate sign-off. Restrict authority to sign out letters/emails to clients with advice;
- Ask all professional staff annually to indicate if there is anything that they know of that could lead to a PI claim;
- Ask each senior member of staff to sign full disclosure letter re potential claims;
- Ask the brokers why they are asking ‘odd questions’ eg: do you have entertainment clients – this can avoid giving the impression of higher risk than you actually have;
- Avoid acting for clients that you do not have the skills to deal with;
- Avoid risky clients – totally *[not sure how you do that!]*
- Balance the need for a realistic approach to client handling in the event of minor issues with lowest possible policy premiums;
- Become an LLP;
- Be honest with your broker;
- Begin director/staff meetings to ensure that any potential problems and claims are identified asap;
- Better assessment of potential risk areas;
- Check wording of policy;
- Check, check and check again on all technical advice given;
- Clarify what is latest position re potential claims;



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- Consider changing excess;
- Consult if out of my depth;
- Consider how to avoid inadvertently falling foul of the law of 'forgery' (eg: div vouchers);
- Control sheets/reviews at special stages (depending upon fee level);
- Cull bad clients;
- Deal with renewal on a timely basis and supplying all relevant information as promptly as possible;
- Detailed fact finds;
- Disclose early and whether you really think a claim is likely or not;
- Disclose possible claims to insurers;
- Discuss possible errors/mistakes that staff/partners may have made by chatting with them individually on a regular basis – say quarterly;
- Discuss with brokers levels and variations in cover;
- Do sensible estimate of likely max risk depending upon type of advice given;
- Don't go outside your experience – seek help;
- Don't undertake audit work;
- Email/see all partners prior to renewal;
- Engage in risk management;
- Ensure all staff/partners' workload is manageable;
- Ensure efficient reporting to PI partner to document problems;
- Ensure that review is made prior to renewal to ensure compliance with terms of policy;
- Ensure the firm has or has access to a specialist or more experienced tax practitioner;
- Ensure that all control (time limit diary, returns submission reports, enquiry control sheets) documentation is upto date;
- Ensure no client accounts for more than 10% of fees;
- Err on the side of caution re disclosure to insurers;
- Expect to notify at least one client from each partner where circumstances could lead to a claim on renewal forms;
- Explain to all new staff why we have PI insurance and what it involves;
- Fix quote for more than one year;
- Full and prompt disclosure of possible claims;
- Following best practice and issuing engagement letters to all clients;
- Get advice checked before going into print;
- Get CIOT recommendations;
- Get all partners to discuss client problems together and not to be afraid to admit when things have gone wrong;
- Get more than one quote;
- Get quotes every 2-3 years and negotiate with insurance company;
- Going to specialists if necessary;
- Good procedures, good relations with clients, good engagement letter, lots of training, good staff;
- Have strong procedures in place;



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- I am a member of SPA (Small Practitioners Association) so insure through their group scheme;
- If recommending as particular course of action, note the other alternatives you have considered and why they were not suitable in the circumstances;
- Implement checklists;
- Increase the level of the excess;
- Implementing checklists and peer-reviews;
- Inform them of acquisition of fees;
- Install/document risk management systems;
- It is important to make staff as well as partners aware of possible problems;
- Keep a risk book in the office to be updated by staff anonymously;
- Keep an open dialogue with insurers; be brutally honest;
- Keep within comfort zone – pass more complex work elsewhere;
- Know what's going on in the office;
- Know your limitations – be wise;
- Knowing what the policy says;
- Let insurance company know about good control procedures;
- Liaise with insurer if not sure of my position if a potential claim arises;
- Limiting the number of staff permitted to undertake certain categories of work, eg: investment advice;
- Limiting the areas of advice we address in-house;
- Maintain high standards;
- Make staff and all partners aware of implications of how PI works and likely source of claims;
- Make sure you complete your renewal carefully and disclose all circumstances that could lead to a claim (even if not likely to lead to a claim);
- Making staff aware of PI procedures and implications and regular feedback;
- Making sure staff/partners discuss areas they are uncertain of with other partners/staff;
- Meet with them to discuss how the firm is doing;
- Negotiate with a number of providers and agree a fixed or lower level of premium given a reasonable claim deductible (excess?) coupled with a good claims record;
- Not taking on clients whose business I don't understand;
- No US clients;
- Obtain various quotes from at least 2 brokers; (Shop around);
- Operate a control sheet for each client, updated on a regular basis, detailing ongoing issues and major events;
- PI premiums are a necessary and absolute sine qua nom (Indispensable)
- Pre-renewal meeting with team to discuss any circumstances that might lead to a claim;
- Pre-selection of clients – screening for PII risk;
- Properly categorise work;
- Put in place a checklist using 'VICCIOUS' for completion with new/existing clients;
- Put in place internal procedures to ensure all potential negligence claims are reported;
- Quality control – reviewing each others work and especially advice;



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- Read the full policy;
- Reduce the size of the practice so that I get rid of risky stuff;
- Regular 'poll' of 'problems' from key individuals;
- Regular review of terms of business and procedures;
- Regular staff meetings to discuss problems;
- Regularly notify possible claims;
- Rely on broker to get policy for a reasonable premium;
- Reminders of policy conditions to staff/partners;
- Replace the managing partner [noted by one brave soul who will remain anonymous!]
- Report on potential PI matters at Board meetings;
- Review all clients prior to insurance renewal to see if any areas of contention/problems that need to be sorted;
- Review clients worked on and consider any potential claims as a result of my work/advice;
- RTFP – Read The Full Policy
- Seek advice from specialist in areas which I am not aware of;
- Selective client base – avoid builders
- Send them as much information as possible – eg: letters of engagement
- Set a fairly high excess;
- Set out a structured policy on working papers;
- Shop around at renewal time;
- Shopping around for 'pure' control of costs;
- Standard questionnaire in-house for managers to fill in;
- Start searching the market well before renewal date – to avoid having to pay extra for last minute policies;
- Stay with specific types of clients;
- Stay with same insurers. Don't be a policy tart!
- Stick to 'knitting'. I.e: don't give advice outside specified areas in your PI – refer this to another firm who can help;
- Talk to other senior colleagues to ensure any obscure technical advice given is documented and correct;
- Tapering cover to areas most at risk and leave other areas out of scope;
- Tell the insurers about all clangers;
- Turn away 'crap' clients;
- Use a central diary register for elections and submissions;
- Use external consultants.
- Avoid areas where you do not have sufficient knowledge;
- Use a second opinion on all but the most basic of advice;
- Use specialist broker;
- Well document things;

*Please note that by sharing contributors' views I am neither endorsing nor condoning any of them. But I'm sure you'll get some value from knowing what others do and by comparing your own approach.*

*Last updated: April 2008*