

A guide to the notification of professional indemnity claims and circumstances

All professional indemnity policies incorporate conditions precedent to insurer's liability to indemnify you under the terms of your policy which impose a duty on you to notify insurers of:

1. Any communication whether in writing or oral intimating a claim or an intention to make a claim against you arising from any professional neglect in the conduct of your business, or for any loss which may be covered by the policy.
2. Any circumstances which may give rise to a claim against you.
3. In addition any notification of a claim or circumstance should be made immediately and before expiry of the policy otherwise there is a substantial risk that insurers may refuse to indemnify you.

Problems can arise in identifying what is a claim or circumstance and the example definitions below may assist.

Claim

Claim means a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages.

Circumstance

A circumstance is an incident, occurrence, fact, matter, act or omission which may give rise to a claim in respect of civil liability.

When considering whether to notify a circumstance you should ignore:

- The amount of any loss, even matters which clearly fall below your policy excess should be notified
- Whether the facts as stated are accurate
- Your own personal views on any liability

If you have to think about whether you should notify or not then notify.

If a claim is made against you, please remember that when dealing with the claimant or their representatives you must not:

- make any admissions of liability
- Make any offers of settlement without the prior agreement of insurers
- Provide details of the firm's professional indemnity policy or disclose that Insurers have been notified.

There are legal protocols applying to all professional negligence claims which impose time constraints and procedural rules as to how claims should be dealt with. It is most important that claims are notified immediately.