

The Importance of Considering Contractual Liability

When policyholders provide professional services, they may be required to sign a contract with the third party.

Quite often this occurs without the policyholder seeking legal advice or talking to their insurance broker about whether their Professional Indemnity insurance will cover them for their exposure under that contract.

The terms of a commercial contract can be inconsistent with standard cover provided by a Professional Indemnity policy, so if a policyholder does not seek advice prior to signing, they can be exposed to a variety of risks.

They may inadvertently be agreeing to provisions that expose them to unintended obligations and liabilities, such as liability for principals or sub-contractors, liquidated damages, hold-harmless clauses and subrogation waivers, which could be outside the scope of their insurance cover and could even put them in breach of the policy conditions.

Once a contract has been signed, there is limited scope for re-negotiation, and similarly a Professional Indemnity policy is also difficult to amend, including changes to clauses such as Assumed Liability and Limitation of Liability exclusions.

The best approach for policyholders prior to signing any sort of contract is to obtain appropriate advice, in order to ensure comprehensive protection for their business.

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Winning Tip No. 6

Policyholders must be aware of the risks associated with signing a contract without seeking advice.

Coverage may not be provided under a Professional Indemnity policy, potentially leaving the policyholder exposed.



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