



So you've taken the plunge and joined the IT Contracting fraternity – Welcome!

Now you've probably already taken care of your tax requirements and company set up but you may have overlooked one teeny tiny hidden nasty. [Insurance!](#)

While the world of insurance may not be as glamorous as Professional Football, a Supermodel or Rugby Player, it's always nice to know that there is someone out there looking to make your life easier and that's where we come in.

As confusing (and boring as it is) you should have it and our job over the next few pages is to help you understand why. Take a look around.....

Business Insurance for IT Contractors

When you think about insurance, the words boring or mundane will possibly spring to mind. Those who think a little deeper about it will probably worry about the huge costs associated with a multitude of seemingly useless services. The truth is, insurance doesn't have to be expensive and it shouldn't be considered a waste of money for you and your company. You wouldn't drive your car without insurance; neither would you choose not to insure your house, so why do so many people not consider insurance for their business?

Professional what?

If you have been asked to buy, or recommended to have, Professional Indemnity and Public Liability insurance but you're a little unclear about exactly how this insurance works to protect you, you may appreciate this simple, easy to understand beginners guide.

So what is it?

It's the kind of insurance that protects your business from financially crippling and often reputation damaging claims by dis-satisfied clients. Because in this "everything-by-yesterday" world, even the most respectable companies can find themselves in dispute with a client over a mistake.

Why you need it

You are an IT Contractor. You're a professional and well rewarded for your work. However working for yourself carries certain obligations and responsibilities – legal ones. Some important factors to consider:

- Mistakes can be costly. You carry a responsibility to your Recruitment Firm and the Client and both can have recourse against you for financial loss. The chance of claim is small, but the chance of a claim being large is high!
- Clients are increasingly asking to see proof of Professional Indemnity insurance before awarding a Recruitment Firm a contract. If they (your Recruitment Agency) have to carry it, so should you.
- Deadlines are a fact of life, but sometimes in the race to get the job done, mistakes happen, causing loss or damage to clients and potentially resulting in huge claims made against you. Without it, your business, even your home could be at risk.

How will it protect you?

It will cover you if you make a mistake in the professional services you have provided that leads to a dispute with a client. If the dispute becomes complicated and nasty, your Insurer can defend your claim – right through to the High Court if necessary. Even if you lose, the policy will still cover you for any damages you then become liable for, subject to the level of cover you are insured for. The policy will also cover the costs of fixing any mistake on your part. This professional indemnity insurance cover will provide protection for your business in the event of claims for professional error, omissions, or professional neglect towards a third party to whom you owe a duty of care. Failing to have professional indemnity insurance will expose you and your company to the risk of being taken to court and sued for a variety of claims such as breach of confidentiality, libel, slander and professional neglect.

Claims Examples (Real Ones!)

- An IT Contractor was hired to write a database for a firm to track its customer base, with the expectation of future increased sales. Due to a software bug, the database never functioned properly leading to lost sales.
The consultant settled for over \$25,000 in damages.

- An IT Contractor was a web site specialist. He was retained to build an online booking system for a travel company. It was alleged that the system contained coding errors causing it to crash. The cost of the claim included the cost of re-programming a new system and lost sales incurred during the system downtime.
The Insurers settled for \$700,000

- A systems integrator was contracted to install a computer system to manage information regarding the Client's insurance policies. The contractor failed to meet established deadlines and deliver a functioning system. The client sued alleging the contractor sold the system knowing it could not be delivered on time and function as sold.
Over \$1,000,000 in damages were sought

- A software programmer delivered an invoicing system to her client with software bugs that could not be fixed in a timely manner. The client sued alleging that due to poor functionality, they could not timely collect receivables due.
The Insurers settled for over \$25,000 in damages.

More Claims (examples only)

Scenario 1

- A software design error causes an MRI machine to be rendered in operable, allegedly causing loss of profit to the hospital.

Scenario 2

- A software consultant develops a software system. The contract contains specific benchmarks for speed and other requirements. The benchmarks are not reached, allegedly, as a result of the negligence of the consultant who is sued for negligence in breach of contract and negligent misrepresentation for loss of profit.

Scenario 3

- A client purchased a digital telecommunications switch. It called for a specialist to connect the switch to the clients networked computer system and to provide maintenance. Several months after installation, the switch fails causing the client significant downtime. The client sues the IT Contractor alleging loss of revenue and loss of reputation. Questions arise as to whether the failure was due to faulty design or manufacture of the switch or due to the failure of the Contractor to adequately connect the switch to the network or to provide proper maintenance services.

Scenario 4

- While transferring data from a legacy to web based system, a database is compromised resulting in the loss of valuable corporate sales information.

Scenario 5

- A software developer is sued when, during the execution of a contract to build an Internet application for a company, the developer is allegedly negligent in the staffing of the project which resulted in alleged breach of contract.

Scenario 6

- You develop software. If you work as a regular employee the any resulting copyrights belong to the employer. But as an IT Contractor, the waters get murky and much depends on the term of the contract. The situation is murkier if the IT Contractor signs something similar to what has been designed for the employer.

Scenario 7

- You design websites and software and work with a "fix" for previously purchased software for clients. You are at risk of copyright infringement and/or charges of misappropriating trade secrets.

Scenario 8

- An IT Contractor (set up as a company) develops proprietary software to integrate with their clients' Human Resources and payroll systems. Their development team experiences a number of unforeseen set backs in the production of their software and subsequently fails to deliver their product on

time, resulting in missed deadlines and payroll glitches. Although you contend that the client repeatedly changed the size and scope of the project, ultimately the client fires you and files a lawsuit for breach of contract, seeking to recover lost profits due to the disruption.

Scenario 9

- Your company laptop is stolen from your car. The laptop contains private financial information of your customers. Your customers sue you for damages resulting from your failure to protect their private financial information.

Scenario 10

- You unintentionally download a destructive computer virus onto a company's server that quickly spreads to other files housed on the network. One of their clients then downloads information from their web site, thereby enabling the virus to spread to their client's computer system. The uploading of the virus from the site results in a significant loss of data, system malfunction and a computer network shutdown for their client. The client sues you, contending that they should have prevented transmission of the virus. The client seeks damages for the lost data and economic loss caused by the network shutdown.

Scenario 11

- You overhaul your web site to include more promotional imagery about your services. The images used are digitalized images, including photographs, from your currently used print brochures. A person shown in one of the photographs claims that she did not authorize your use of her photo on a web site; the woman sues you, contending that you have violated her publicity rights.

Scenario 12

- You modified a third party's software programme when creating a new product. The copyright of the original programme was owned and registered overseas. You marketed the modified product under your name. The overseas company became aware of this version being sold under your logo and sought damages for breach of copyright, loss of profits and reputation.

Professional Indemnity Insurance protects against claims for "Business Injury", which means any financial loss that claimants suffer as a result of:

The combined liability policy we can arrange for you includes:

- Civil Liability professional indemnity wording;
 - Any negligent act, error or omission for the provision of Technology Services (it's unique to IT Contractors)
 - Unintentional Infringement of Intellectual Property Rights.
 - Loss of Documents/Data entrusted to you
 - Unintentional libel, slander, defamation.
 - Unintentional breach of confidence, confidential duty or

Scope of cover

misuse of information.

- Public Liability cover;
 - Technology Products cover for Bodily Injury and Property damage as a result of your negligence as an IT Contractor
- Statutory Liability cover;
 - \$500,000 cover For Bodily Injury and Property damage as a result of your negligence in your business activities

The Combined Technology Liability policy includes Network Security Breach cover; worldwide Media Liability cover and a host of other extensions exclusive to those working in the IT industry.

If an independent contractor makes a mistake or is negligent in their work and the client suffers some disadvantage as a consequence of this negligence there is the potential for a claim.

The client would notify the consultant of the problem and claim and immediately the consultant should notify their insurer. Typically both sides would engage lawyers to work through the process of establishing whether there was negligence and if so whether this directly led to disadvantage or loss for the client.

If the case is proven then damages will be calculated and awarded to the client. Professional Indemnity Insurance will cover the cost of this payment up to the level of cover purchased. The insurance will also cover legal and court costs.

Professional Indemnity Insurance operates on a 'claims made' basis so it is possible that claims will be made well after the work has completed. For this reason it is important to fully understand the time periods during which Insurance cover needs to be in place. An independent contractor will need cover from the date when he starts to practice through to the end of a set period from the point at which he stops practicing. This latter period is referred to as the period of Run-off.

During Run-off the contractor is no longer practicing but there is the possibility of residual claims for liability arising from work which was undertaken whilst the consultant was practicing. Therefore, it is important to maintain contractor liability insurance cover for a period following cessation of trade. The length of this Run-off period will be influenced by a number of factors including the law in the country in which the contracting work was undertaken and the nature of the contracting contract. Typically this period is six years for mainstream contracts but can be twelve years if the contract is created by deed.

How does the Professional Indemnity policy work?

Summary

Independent Contractor Liability Insurance provides essential protection and valuable peace of mind for a freelance consultant. You need to establish whether insurance cover is mandatory for your practice and if so ensure that you have an appropriate policy in force.

If Professional Indemnity Insurance is optional then you need to undertake a risk assessment of your intended consulting activities and take a decision based on a simple cost / benefit analysis. Ultimately the decision will be influenced by your own attitude to risk and the value that you place on security and peace of mind.