



# Professional indemnity insurance

a Blyth Valley guide for business folk\*

\*We're based in Suffolk. We're allowed to use the term "folk".



## Monday morning... sobering thoughts of insurance

Yesterday you were enjoying a leisurely Sunday. You'd caught up with some friends, had an enjoyable lunch, watched some TV in the evening and had a pretty optimistic view of the week ahead. Now it's Monday and Sunday seems an age ago.

A client has complained in writing. They're claiming that a piece of work created by you has featured a logo that was incorrectly reproduced. They want reimbursing, and they want you to foot the bill - to the tune of fifteen grand. And you don't want to lose them as a client.

Things don't look so optimistic any more.

You looked into professional indemnity insurance a few months ago. If you're honest with yourself, you didn't really understand it. And you're not going to pay for something that you don't understand. After all, you're running a small business; you want to minimise expense.



Hindsight, however, is a beautiful thing, and that insurance premium now seems like a sound investment.

At **Blyth Valley**, we've been selling professional indemnity insurance for nearly ten years. In fact, we were the first company in the UK to sell this type of insurance online. We pride ourselves on being approachable: ditching the jargon and making things clear.

### What is professional indemnity insurance?

Professional indemnity insurance will protect you financially against mistakes you make in the course of your work for clients. You see, as a professional, you owe a legal **duty of care** to your clients. If you breach that duty, your client can claim compensation from you for the losses and expenses caused by your negligence.

"Duty of care? Negligence? What does it all mean?"



## Duty of Care: A brief history, starring a snail in a bottle

*Duty of care is our responsibility as people, businesses, or otherwise, not to cause damage to others, that we could reasonably foresee and avoid.*

May Donoghue and her friend strolled towards Wellmeadow Café looking forward to a tasty refreshment. It was the late summer of 1928 and the streets of Paisley, Scotland, were humming with evening activity.

After a short walk, the couple arrived at the small café owned by Mr Minchella. Ordering a pear and ice for himself, the friend kindly ordered an iced drink for May: ginger beer poured over ice cream. May took a few sips from the tumbler of her iced drink, leaving enough room to pour in the remainder of the bottle of ginger beer. But as Mr Minchella topped up her drink, the decomposed remains of a snail dropped out of the opaque bottle.



May Donoghue claimed she became ill due to this incident and required medical treatment: by her doctor three days later, and again, some three weeks later, at the Glasgow Royal Infirmary.

### **Pursuing the claim**

Since the friend had bought the iced drink from Mr Minchella, May had no contract of sale, and thus no recourse against Mr Minchella. However, the snail-flavoured bottle of ginger beer carried the name of its creator: "D. Stevenson". May would have to sue David Stevenson for negligence, but that would be very difficult: previous cases had been decided in favour of the manufacturer since the consumer had no contract with them. But May Donoghue was tenacious, and determined to get her compensation.

After four years of legal wrangling, the House of Lords finally decided that manufacturers should owe a **duty of care** to consumers. May Donoghue was entitled to compensation.

As the years have passed, the law has progressed. It now extends beyond manufacturers and their products, to professionals and the services they provide.

It means that, if your professional service is found to be negligent, you personally could be pursued for damages.



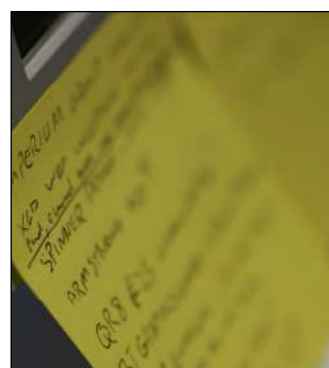
## Professional Negligence: The risk of missing the Clapham omnibus

*Being a professional and providing a professional service means that you owe a greater duty of care than the "average" person. Failure to do so could lead to a claim against you personally.*

As a professional, you'll be trained, proficient, and experienced in your field of expertise. Just as your skill set is not that of the average man off the street – "the man on the top of a Clapham omnibus", neither is your duty of care. If you profess to have skills in excess of the ordinary person, you must provide these skills for your clients.

And it's not always just your clients to whom you owe this duty of care.

In 1963, the bankers for an advertising partnership, Hedley Byrne, telephoned the bank of Heller & Partners Ltd to inquire about the financial position of Easipower Ltd. Hedley Byrne would shortly undertake some large contracts with Easipower and wanted to be sure of their ability to pay.



Heller & Partners vouched for Easipower, and Hedley Byrne began their work. Soon after, Easipower went bankrupt and Hedley Byrne did not receive payment. Hedley Byrne began legal proceedings against Heller & Partners, claiming they were negligent in their provision of misleading information.

### **A special relationship**

Hedley Byrne had not requested the information from Heller & Partners – their bankers had. Nevertheless, the courts held that it was reasonable for Heller & Partners to have known that the information provided would be used to make such decisions, and thus the relationship between the parties was "sufficiently proximate" as to create a duty of care.

However, there was no order for damages as Heller & Partners had provided a waiver of responsibility with the information, stating it was: "for your private use and without responsibility on the part of the bank and its officials." This, in itself, is a valuable lesson in minimising your liability to potential clients.

But minimising your liability through waivers and disclaimers is no substitute for transferring the risk. Enter your professional indemnity insurance...



# Five benefits of buying professional indemnity insurance

## 1. It costs you less

Legal advice is expensive. Very expensive. Professional indemnity insurers will pay your legal costs when defending a claim and, if you're found liable, any compensation.

And let's face it: budgeting for insurance is easier than budgeting for a trial. Especially as our Hiscox policies are payable by monthly Direct Debit, interest-free.

## 2. Insurers have expert help

Insurers have a dedicated team of litigation specialists available to them. They know what information is required to defend a claim. We're guessing that you probably don't.

All you have to do is provide the information they need.

## 3. Putting right your mistakes

Not in a magic fairy kind of way, obviously. But insurers will pay the cost of doing so, thereby keeping the client happy.

Insurers are savvy; they'd rather not go to court - it costs them more. Putting mistakes right to avoid claims is cost effective for all concerned.

## 4. It may get you your money

Professional indemnity isn't a debt collection service. But it may pay out if a client refuses to pay you, claiming you've been negligent in your work.

If you were to pursue your money, your client would make a counterclaim against you. The counterclaim would effectively trigger the policy anyway, so insurers make a pre-emptive strike by paying your outstanding fee.

## 5. Peace of mind

Yes, "peace of mind" is a little cliché, but it's quite apt. We all make mistakes. Many of our clients are sole traders; their personal assets are at risk if a substantial claim due to their negligence is received. Professional indemnity insurance protects them against what could be a very expensive mistake.



## Contact us

If you would like to discuss your insurance requirements with us, please call 0845 370 9044 Monday to Friday, 9.00am to 5.30pm, or email [theteam@blyth-valley.co.uk](mailto:theteam@blyth-valley.co.uk).

Alternatively, you can visit our website at [www.blyth-valley.co.uk](http://www.blyth-valley.co.uk)

We pride ourselves on providing a great service to all of our clients. It's how we've built our business over the last ten years, and how we continue to grow today.

## Credits

### Sources:

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#### Print

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