

The life cycle of a claim

If a client brings a claim against you for professional negligence, it can seem daunting and stressful to resolve. Your insurance broker is there to guide you through the process, help alleviate the angst surrounding a claim and support you to achieve the best possible outcome.

While no two claims are exactly the same, you and your broker will carry out four typical phases when processing a claim: identifying, notifying, qualifying and satisfying.

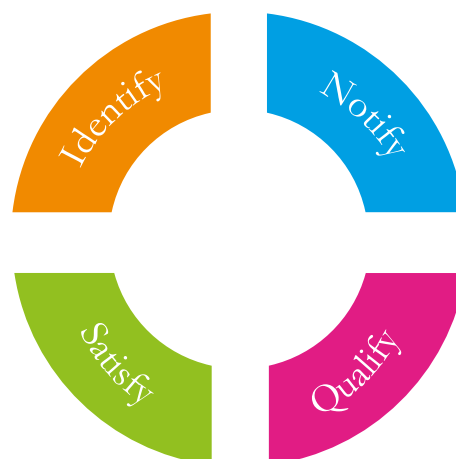
Identify

If you do become aware of a claim made against you relating to your services, or you become aware of a circumstance that could lead to a claim, you should contact your broker straight away. The best way to create a smooth claims process for yourself, and often to avoid claims in the first place, is by keeping thorough records of all your dealings with clients, from verbal advice through to documentation. Having your client contact on file makes it much easier for insurers to get the information they need.

Regular, open communication with your insurer, broker and solicitor is key, so that if claims do arise, they are familiar with your business and in turn you are familiar with the steps involved to reach a simple, swift and cost-effective resolution. Simply notifying the relevant parties of a circumstance will not necessarily harm your risk profile or lead to higher premiums at the next renewal, whereas a claim that has been notified

late could become difficult and costly to resolve if it has escalated over time.

Awareness and early notification should be embedded in your working practices. An open workplace culture where employees feel they can come forward with concerns or potential issues, rather than ignoring the issue or trying to manage it themselves, will help your business in the long run. Encouraging full disclosure at a very early stage allows all parties involved to identify the extent of the issue and work towards a resolution.



If your relationship with the claimant is strong and remains generally amicable, the most important thing is to maintain that goodwill as best you can throughout the process. If the relationship has completely broken down, it can make the claims process more difficult, although we will do everything we can to assist.

The life cycle of a claim



Notify

After you have reported the claim to your broker, they will appoint a claims advocate who will notify your insurer and send them your policy details. Insurers will request further claim details to establish a fuller picture of the events and parties involved. Sometimes, they will also ask to hear your perspective on the case, whether you think you do have any liability, and how much a potential loss could be, a process that your claims advocate will guide you through.

Qualify

Following notification you are often advised not to communicate with the client without the prior agreement of the insurer. The insurer will usually check any communication before asking you to send it or in many cases they will draft the response for you.

If your claim is particularly large or complex, an external or panel solicitor is usually brought in, and both your broker and the insurer will provide them with the information they need to handle your case and after this they will communicate directly with you. If the claim is smaller, your insurer will generally manage it in-house, and your broker will aid them with responses.

At this stage, you might receive a pre-action protocol letter, in which case you should consult your broker and solicitor on how to proceed. Many claims are resolved without needing to progress to dispute resolution or litigation, so depending on its size and severity, it is possible to end the claim process here.

Satisfy

Depending on the nature of the claim and on how far the claimant plans to pursue it, the claim could enter a negotiation phase. This usually takes the form of an Alternative Dispute Resolution (ADR), a means of resolving disputes outside of the courts. It is highly likely that a mediation or negotiation of your claim will take place here first, and will only be taken to court as a last resort.

In extreme cases, litigation is the next stage when pre-action protocols and ADRs are unsuccessful. Thankfully this situation is fairly rare, since taking claims to trial is both costly and time-consuming, with no guarantee of success.

While claims are rarely welcome news, they are always something to learn from. Thorough, open working practices can eliminate the risk of claims in the first place, and if one should arise, they present an opportunity to fine-tune these practices and ensure that, with the right safeguards in place, the same situation is not likely to occur again. Contact your insurance broker to find out how best to manage your exposures and prevent your business from professional indemnity risks.

Contact

For more information, please contact the Lockton ACCA team on 0117 9065057 or email:

ACCAaccountants@uk.lockton.com.