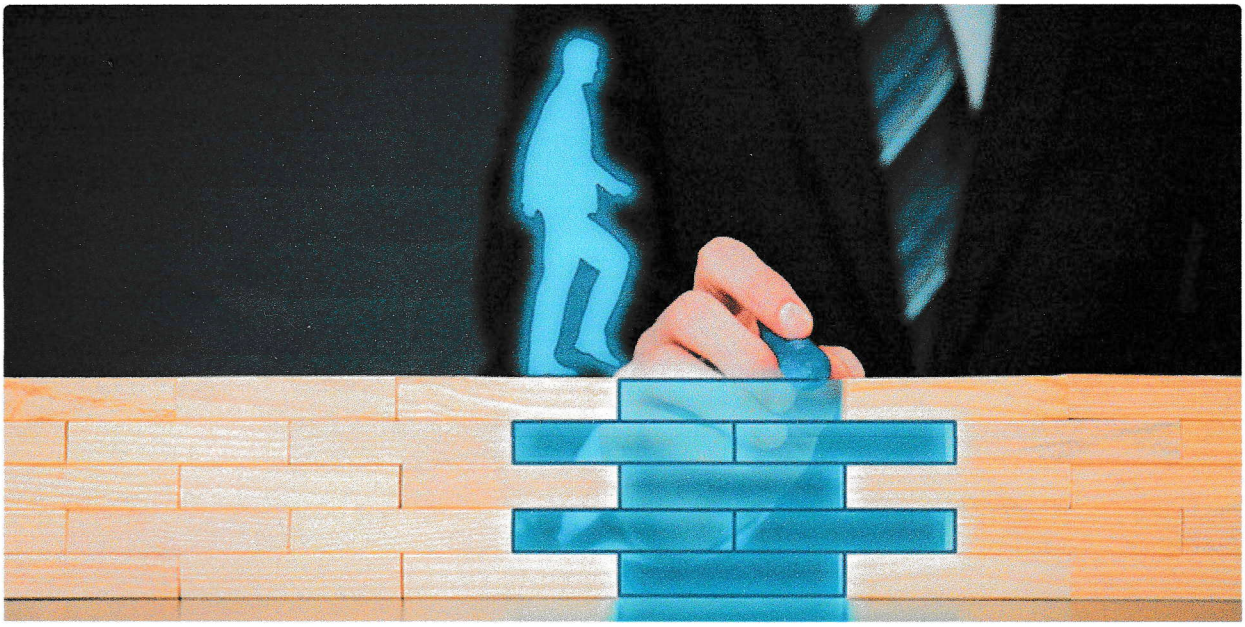
REMINGTONS INSURANCE BROKERS



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How public liability and professional indemnity insurances are often confused

Most business owners need public liability insurance to operate (even though it's not compulsory), but what about professional indemnity insurance? That's where the confusion lies - they're not the same thing.

So, how are they different, and why would your business need this insurance cover?

Public liability insurance: about negligence.

Most Australian businesses must have public liability insurance due to contractual requirements. This protects your business (https://www.business.gov.au/risk-management/insurance/business-insurance) against accidental third party injury or damage that occurs as result of your business activities. It's designed to cover compensation claims from members of the public, which can include suppliers, customers, clients, and passers-by. You are also covered for injury or damage during a client's visit to your business or when a member of staff visits your client's premises.

Public liability insurance protects your company when someone is injured, or property is damaged during, due to, or arising from your business operations. (It's not the same as products liability insurance, which relates to damage or injury caused by products that you distribute, supply or manufacture.)

The business.gov.au (https://www.business.gov.au/risk-management/insurance/business-insurance) website gives examples of public liability insurance cases that could involve your business, such as:

- A customer slips or trips due to a spillage or hazard on the floor of your premises sustaining personal injury
- Damage to property owned by a customer whilst it is being held at the business premises
- A spectator is injured at an event that you have organised

Should a person sue your business, they'd have to prove your business was negligent. This is three-pronged - your business owed them a duty of care, your business breached that duty, and that caused them harm or damage. However, the law of negligence may have been varied by legislation enacted by each State or Territory.

APRA's latest estimated total public liability claims payments (https://www.apra.gov.au/sites/default/files/2020-07/general%20insurance%20claims%20development%20statistics%20highlights%20december%202019.pdf) by Australian insurance companies for the 2019 financial year sits at $1,328m.

Professional indemnity insurance: about professional advice

Professional indemnity insurance protects businesses who provide professional services or advice to others.

It's a financial safeguard for individuals and/or businesses to cover for claims that arise out of any actual or alleged breach of professional duty (https://www.business.gov.au/risk-management/insurance/business-insurance). For example, a business might have made mistakes or neglected to do something in their professional service.

In other words, it covers your legal costs as well as compensation claims that arise from some failing of your professional advice or service.

However, the purpose of professional indemnity insurance is not to cover your dishonest, fraudulent or criminal acts - that's an exclusion.

Examples of when professional indemnity insurance (https://www.business.gov.au/risk-management/insurance/business-insurance) would come into play include:

- Not fulfilling your side of the contract due to your negligence
- Giving bad or wrong advice causing financial loss to your client
- Your staff acting fraudulently or dishonestly
- You/your staff defaming a third party (libel - written - or slander - spoken)
- Losing your clients' documentation
- Unintentionally breaching copyright or confidentiality
- Making mistakes, errors or omissions in providing a service such as improperly auditing a company's account
- Giving negligent legal advice (if you're a legal firm)

From the list above, you'll see that as a business owner, you'll be vicariously liable for the negligent actions of your employees. Indeed, human error is the top reason for claims against Australian businesses.

Professional indemnity insurance is compulsory before you can legally operate in some industries. And it's much broader than just the traditional professions of doctor, lawyer, and accountant. You can also find out about your industry's requirements for such insurance on the business.gov.au (https://www.business.gov.au/risk-management/insurance/business-insurance) website.

As your broker, we can help advise you if that cover is a good fit to reduce your risks, or if you need to take out a new or different policy. Key issues you'll need to explore with us are the limit, continuity, and cessation of cover.

The latest total professional indemnity claims payments from APRA's 2019 figures is estimated to be $1,375m.

The difference: public and professional

So, the differences between the two insurances come down to two words: 'public' and 'professional'.

When members of the public make a claim against your business for injury, illness, or damage, your public liability insurance cover should protect you.

And, when a client claims against you for your professional mistakes or negligence, your professional indemnity insurance would cover you.