



## **Professional Indemnity Insurance**

### **Will Writers Proposal Form**

## **THE INSURANCE ACT AND THE DUTY OF FAIR PRESENTATION**

The Insurance Act provides clarity around what information a purchaser of insurance has to provide to the insurer, which of their staff is responsible for doing that and to whom they have to provide it. The new duty is now described as a 'duty of fair presentation', effectively requiring non-consumer policyholders to undertake a reasonable search of information available to them, and defining what a policyholder knows or ought to know. It is important to note that 'entering into an insurance contract' includes not only the main policy and each renewal of it, but any variations or amendments. Each time a contract is varied, the duty arises afresh in relation to that variation.

### **Fair Presentation and Material Circumstances**

Before the insurance policy takes effect you have a duty to make a fair presentation of the risk to be insured under the insurance policy.

A *fair presentation of the risk* is one:

- which;
  - a) discloses to the Insurer every material circumstance which the proposer knows of or ought to know of, or failing that;
  - b) disclosure which gives the Insurer sufficient information to put the Insurer on notice that it will need to make further enquiries for the purposes of revealing those material circumstances; or
- disclosure which would be reasonably clear and accessible to the Insurer; and;
- in which every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith.

The proposal form will form the basis of a contract between you and the Insurer. Inaccuracies or misrepresentations could lead to the policy being voided, and/or a claim being refused. If you have any doubt whether particular information or a material circumstance is relevant to Insurer's ability to underwrite your application for insurance, you should declare the information as soon as possible. A *material circumstance* is one that would influence the Insurer's decision as to whether or not to agree to insure you. If you are in any doubt as to whether a circumstance is material, you should immediately disclose it to the Insurer.

### **Remedies**

Importantly, the Act introduces a new system of proportionate remedies where the duty to make a fair presentation has been breached. The ability to avoid will be retained in some cases where the insured breaches the duty to make a fair presentation in relation to disclosure/misrepresentation – see brief details below of how Remedies will apply.

#### **Remedies for Material Non-Disclosure or Misrepresentation**

Consequences of a deliberate or reckless breach may be:

- a) the insurer may avoid the contract and refuse all claims; and
- b) need not return any of the premiums paid

For example, an insured deliberately conceals known and material information from its presentation of the risk and does not even provide sufficient information to put the insurer on enquiry, making it an unfair presentation. This entitles avoidance but with no obligation to return premium.

#### **Proportionate Remedies; for non-deliberate or reckless breaches**

1. If the insurer would not have entered into the contract on any terms: the insurer may avoid the contract and refuse all claims but must in that event return the premiums paid.
2. If the insurer would have entered into the contract but on different terms (other than terms relating to the premium): the contract is to be treated as if it had been entered into on those different terms if the insurer so requires, even if the insured would never have accepted such terms.
3. In addition, if the insurer would have entered into the contract but would have charged a higher premium (whether the terms relating to matters other than the premium would have been the same or different): the insurer may reduce proportionately the amount to be paid on a claim.

In sub-paragraph (3) above, 'reduce proportionately' means that the insurer need only pay on the claim X% of what it would otherwise have been under the terms of the contract (or, if applicable, under the different terms provided for by virtue of paragraph 2, because 2 and 3 can apply together). The calculation is as follows:

$$X = \frac{\text{Premium actually charged}}{\text{Higher Premium}} \times 100$$

#### **Insurers Remedies for Fraudulent Claims**

The Act provides the insurer with clear statutory remedies when a policyholder submits a fraudulent claim. If a claim is tainted by fraud, the policyholder forfeits the whole claim, they cannot recover the part of the claim that would genuinely have been payable.

The Act also provides that the insurer may refuse any claim arising after the fraudulent act and can serve notice that it is treating the contract as terminated from the date the offence was committed. However, previous valid claims arising prior to the fraudulent act are unaffected.

The insurer need not return premium following notice of termination based upon the submission of a fraudulent claim.

**If you need further clarification on the Insurance Act 2015 please do not hesitate to contact your Broker.**

## Guide to Completing this Proposal Form

If this is the first time you (the proposer) have submitted a proposal form to The PI Desk please make sure you answer all questions fully leaving no blank spaces (if necessary comment as N/A, 'not applicable' or 'none'). If the form is not satisfactorily completed we will not provide any terms but may make further enquiries of you or will automatically decline.

If there is insufficient space to complete all answers, please continue at the end of the form or provide additional information on the firms headed paper. Providing as much information as possible will help underwriters to understand the business and enable Insurers to offer terms quickly. Failure to provide underwriters with relevant information in an appropriate manner may adversely influence the ability of Insurers to offer suitable terms.

The form must be signed and dated by a Director, Partner or Principal or an identified Officer of the proposing entity.

Insurance cover is not effective until the underwriters and/or Insurers have accepted a proposal form and any terms and payment method offered to the proposer have been accepted in writing.

If the proposer has not been trading for at least 3 years in this profession, please enclose CV's of all Directors, Partners and/or Principals. If the proposer is a new start-up please provide full details of past experience, qualifications along with the CV's.

Where available, email addresses, web site addresses, brochures, the proposer's standard contract conditions and/or agreements should be provided to assist the underwriting process.

### Claims and/or Claims Circumstances

If the proposing firm has received any complaint(s) or claim(s) or is aware of any circumstance(s) that may give rise to a claim please provide full details and forward a complaints/claims log in a durable format which has been fully completed; is up to date and which should incorporate all complaints/claims from inception of the business. Please also include any complaints/claims notified to any predecessor firm and/or whilst conducting business for or on behalf of any other firm.

Professional Indemnity (PI) policies respond on a claims-made basis, which means that cover is only provided for matters arising where Professional Indemnity Insurance is in force at the time of the notification of a complaint or claim to Insurers. Where a retroactive date is noted on the policy certificate/schedule, then no cover is provided for any matter arising from business conducted prior to the retroactive date. If a PI policy is allowed to lapse at renewal or mid-term due to unpaid premiums then cover is automatically cancelled and no cover is provided in any event.

Please note that Professional Indemnity Insurance schedules/certificates are issued as annual contracts and you cannot cancel the Insurance mid-term unless specifically agreed by Underwriters.

### New Business Start Up Venture

If this proposal form relates to a new business startup, please complete the questions by giving your best estimated information for your first year of trading. When estimating your projected fee income, we recommend that you provide a realistic estimate of what you think is achievable based on your business plan. If you exceed your projections the policy cover/limits can be amended.

### Retroactive Cover

It is very important that you provide details of any retroactive date applying to your business. Where a retroactive date is stated on your expiring policy schedule, this will be applied on the quotation document and thereafter the policy schedule. In this event, the policy will only provide indemnity for claims arising from activities/work declared to the Insurer and which has been undertaken on or after the retroactive date shown. It is your responsibility to ensure that there is no work or liabilities arising from work undertaken prior to the retroactive date which needs to be covered under your policy.

### Predecessor Companies and/or Partners, Principals Previous Businesses

If cover is required in respect of liabilities arising out of predecessor companies or any partners, principals previous businesses, please include full written details within the proposal form. If there is insufficient space to provide this information, please include an additional page, covering letter or email with full details.

### Limits of Indemnity

You must arrange and maintain a limit of indemnity that is adequate to meet any claims that may be brought against you both now and in the future. If you are subject to a minimum requirement by your professional body you must not take this as being adequate and the level of cover should meet the protection requirements of you and your business. We can provide quotations for any limit you request you will not accept any responsibility for the choice you make. If you are in any doubt as to what limit of indemnity will meet your business needs then please discuss this with your broker.

### Independent Consultants

If you use the services of independent self-employed consultants to provide professional services on your behalf, you must check that they are adequately qualified and that they hold their own Professional Indemnity Insurance that carries a limit of indemnity at least equal to your own. If they do not hold Professional Indemnity Insurance (or their own policy is inadequate) you can arrange to insure them under your own policy but this would be subject to full details of the appointed consultants and may be subject to additional premium being charged. Please include CV's including relevant qualifications of those individuals requiring cover.

**If you require any assistance in completing this form please contact your Insurance Broker in the first instance.**

**Please note that we will communicate with you preferably by email so please provide a valid and regularly used email address.**

## The PI Desk Ltd Contact Details

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Email the completed form to us on: [enquiries@thepidesk.co.uk](mailto:enquiries@thepidesk.co.uk)

alternatively Fax to: 0114 242 2372 or

Post to: The PI Desk Ltd, Suite B, Sheffield Business Centre, Europa Link, Sheffield, South Yorkshire, S9 1XZ

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For all Underwriting queries call on: 0114 242 1176

Larger cases, claims or technical queries contact: [roger.crowther@thepidesk.co.uk](mailto:roger.crowther@thepidesk.co.uk)

# Professional Indemnity Proposal Form for Will Writers & Estate Planning Practitioners

Please print your answers clearly to assist the Insurers' consideration of the proposal

## 1 – General Information

Contact Name			
Name of Proposer/Firm to be Insured			
Trading Address			
Date firm established			
email:			
Telephone:		Mobile:	
Web Site:		Fax	

This insurance can be extended to include associated, subsidiary and predecessor businesses, or the previous Business activities of any Principal, provided that they are listed below or on a separates sheet and all the Information you give in this proposal form relates to all the companies named:

Name of Business	Location (City/Town)	Nature or Operation of Business	Dates Trading from / to

## 2 – Details of Principals / Staff

Full Names of Sole Trader / Directors / Partners	D.O.B	Qualifications	Number of years in this capacity (in this firm)

Does the firms Directors/Principals have at least 3 year's experience trading in this profession Yes  No

If this is a new start up business and/or where the Directors/Principals have less than 3 years experience please attach full CV's

Please state the total number of: (including part time workers)

Total number of Principals, Partners, Directors	
Customer facing/Technical / Sales Staff / Consultants (excluding Administration staff)	
Self Employed staff	
Administrative and all other staff	

### 3 – Professional Associations

Is the firm authorised by any Regulator, linked to or a member of any Trade Association or Professional body? Yes  No

Name of Regulator or Professional Organisation(s)	Date Joined	Authorisation Number

### 4 – Gross Income/Fees – Financial Information

Please give the amount of known and projected Gross Incomes / Fees received for the 5 year period requested below and as shown in prepared accounts as well as an estimate for the current trading and the forthcoming year from all business conducted. If you are a new start up business show projected income for the next 12 months as per your business plan.

	<i>As at Year Ending - i.e. dd/mm/yy</i>	<i>Gross Income</i>
Gross projected Income for next financial year		£
Gross projected Income for the current trading year		£
Gross Income for the last complete financial year		£
Gross Income for the prior financial year 1		£
Gross Income for the prior financial year 2		£

In respect of the income declared in section 4 above, please in your own words describe your main activities and then insert the percentage split of all activities in section 5 below which will directly relate to your declared income.

### 5 – Division of Work

Please list the activities and state the approximate percentage breakdown of work carried out in each instance

Description of activities	Percentage in last Complete Financial year	Number of cases conducted
Will Writing	%	
Will Storage	%	
Codicils	%	
Establishment of Trusts	%	
Lasting Powers of Attorney (LPA's)	%	
Advance Directives	%	
Tenancy Severance	%	
Probate	%	
Pre-Paid Funeral Plans	%	
Tax Consultancy	%	
Other – please provide details:	%	
<b>Total</b>	<b>100</b> %	

## 6 - Will Writing

1) – Does the firm require cover for Will Writing activities? – If NO go to next section.  
*Please note if you are taking instructions, providing any advice, meeting with the client at any part of the process holding conversations that could be considered to be 'advice', you should tick Yes.*      Yes     No

2) – What fees are charged for single and joint wills?

3) – Does the firm take instructions directly from clients in all cases?      Yes     No

4) - Are ALL client interviews conducted Face to Face?      Yes     No

5) - Does the firm take instructions only and then pass the Will preparation to third parties?      Yes     No

6) - Does the firm take part in the preparation of the Will?      Yes     No

If No how are the Wills prepared (by who) and how are they executed?  
 Please advise if the firm is in attendance when the will is delivered and what part the firm takes in the signing process.

7) - If the firm is involved with the preparation of Wills, does the firm use a propriety software package to prepare the Wills - please state the name of the software opposite (or tick N/A)       N/A

8) - Can the firm confirm that a Draft Will is provided in advance of signing in every case?      Yes     No

9) - Do all clients have the opportunity to review and check the details of the Will prior to signing?      Yes     No

10) - Does the firm attend every Will signing and execution?      Yes     No

11) - If NO, how does the firm determine the Will is signed by the relevant person(s) i.e. the Testator?      Yes     No

12) - If the Will fact finding interview is not conducted face to face, how does the firm verify the identity of the Testator(s) and establish that each Testator has sufficient mental capacity to understand the legal nature of the Will preparation process and is/are not being coerced into making such arrangements by third parties?

13) – What effective procedures does the firm have in place to identify and prevent Financial Crime?

14) - Does the firm undertake regular checks on its files (and any consultant's files) to determine the business is conducted appropriately? Yes  No

15) - Where Tax advice is given do Consultants have the appropriate training, experience and qualifications? Yes  No

**Will Storage**

16) - Does the firm store wills on behalf of clients? Yes  No

17) - If Yes and cover is required for Will Storage, please confirm where the wills are stored including any details of the manufacturer and specifications of any safes used:

18) - Can you confirm that the Will storage area is completely secure at all times and that storage cabinets/safes are fireproof to relevant standards? Yes  No

19) – Does the firm charge any fees for Wills storage? Yes  No

20) – If Yes - Can you please confirm that you have included income/fees for the Will storage activities under question 4? Yes  No

## 7 – Lasting Powers of Attorney (LPA)

1) - Does the firm deal only with LPA Donors? Yes  No

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2) – What is the average fee the charges for an LPA? £

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3) - Is the LPA service provided by the firm advised? Yes  No

4) - If non-advised does the firm provide generic information on any part of the process in particular information on selecting Attorney's? Yes  No

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5) - Please confirm the number of LPA's completed in the last 12 months  LPA's

6) - Please split by percentage the types of LPA's completed

a) Property & Affairs LPA's  %

b) Welfare LPA's  %

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7) - What percentage of Donor interviews are conducted:

a) Face to face  %

b) Remote based i.e. call centre/telephone  %

c) Postal/paper based  %

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8) - If fact finding interviews are not conducted face to face, how does the firm verify the identity of the Donor and establish that each Donor has sufficient mental capacity to understand the legal nature of the LPA process and is not being coerced into making such arrangements?

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9) - Does the firm take steps to establish if an Enduring Power of Attorney (EPA) already exists? Yes  No

10) - If Yes, when replacing an existing (EPA), does the firm properly advise the Donor not to cancel the EPA before the LPA is fully registered with the Office of the Public Guardian? Yes  No

11) - How many EPA's have been replaced in the last 12 months?

12) - Does the firm provide a service where it is involved in revoking any existing EPA's? If Yes provide further details below Yes  No



## 8 – Risk Management Procedures

- 1) - Does the firm take steps to ensure that it adequately understand its client's requirements? Yes  No
- 2) - When engaging with customers, does the firm issue a standard terms of business, form of contract or engagement agreement in every case? Yes  No
- 3) - Does the firm always obtain written references when engaging new partners, directors, employees or agents? Yes  No
- 4) - Are all client facing staff provided with the relevant training and their competency levels recorded? Yes  No
- 5) - Are all client facing staff only allowed to provide services relevant to their competency levels? Yes  No
- 6) – Where appropriate, does (or would) the firm regularly review its advisers business and where remedial action is identified, put the adviser through an appropriate retraining program? Yes  No
- 7) - Does the firm have a written set of procedures for the Collection of Monies? Yes  No
- 8) - Where relevant, does the firm ensure that all cash/cheques received by employees in the course of their duties are paid in daily or held secure until such time they can be? Yes  No
- 9) - Do the firm ensure that all cheques issued by the firm in respect of the business or client accounts are signed by more than one partner or director? Yes  No

If No is answered to questions 1 to 9 please provide further details here or at the end of the form

- 10) - Have there been any circumstances where it has been identified that clients may have been incorrectly advised or may have suffered a financial loss or damage? If yes please detail on a separate sheet Yes  No

11) - Please comment on any features of the firms work that will be conducted in the next 12 months that may affect or change the proposed risk and / or dramatically increase income:

- 12) - Has any Partner, Principal or Director ever been made personally bankrupt? Yes  No
- 13) - Has the Proposer or any Partner, Principal or Director been a Partner, Principal or Director or been associated with any business which has ceased trading either voluntarily or compulsorily? Yes  No
- 14) - In respect of this or any other company, has the business discharged any employee or severed any relationships with any partner or director within the last 10 years? Yes  No

## 9 – Sub Contractors

- Does the firm engage or use independent specialist consultants or sub-contractors? Yes  No   
If No proceed to next section

If Yes please describe the nature of the majority of work conducted by these specialist consultants or sub-contractors

If Yes please confirm the level of indemnity you require them to hold. £

## 10 – Previous Coverage – (do not complete if already insured with The PI Desk Ltd)

Has this business been previously insured for professional indemnity? Yes  No

How many years have you held continuous cover?   Years

Please provide details of current insurer below

Name of Insurer:	
Limit of Indemnity (state whether aggregate or any one claim basis)	£
Self Insured Excess:	£
Retroactive Date:	
Date of expiry of Cover:	
Annual Premium paid:	£

Please attach a copy of your current schedule if this is easier

Has any similar insurance made on behalf of the firm, any predecessors in business or present Partners, Principals, or Directors ever been declined or has any such insurance ever been cancelled, renewal refused or any special terms imposed (other than market rate increases)? Yes  No

If yes please provide details:

## 11 – Limit of Indemnity required for this Professional Indemnity insurance

Please select/tick the level of indemnity required:

£100,000     £250,000     £500,000     £1 million     Other £

Please insert the level of excess you require – (this is the amount you pay on each claim) £

(Please note that Underwriters will require minimum limits and excesses, depending on size and type of work undertaken)

## 12 – Claims History

Has any claim whether successful or not, ever been made against this firm/organisation or its predecessors in business or any past or present Partner, Principal, Director or Employee (whether previously Insured or not)? Yes  No

If "Yes", please give full details at the end of the form (attach a schedule or spreadsheet if this is easier) including dates, amounts involved, brief details of the nature of the claim and whether settled or outstanding?

Has the business sustained any loss during the past 10 years as a result of the fraud or dishonesty of any partner, director or employee of the business? Yes  No

Are you or any of the Partners, Principals, Directors or Employees, AFTER FULL ENQUIRY, aware of any circumstance which may result in any claim being made against the Proposer, its predecessors in business or any past or present Partner, Principal, Director or Employee? Yes  No

If Yes please provide full details at the end of the form or on a separate sheet

**13 - When do you want this Insurance to start (Insert start date or tick one other box - do not backdate)**

Start Date:  Or on renewal date of your existing TPIDL PI Insurance  Or T.B.A.

**14 – Declaration**

Please read the following carefully

**Data Protection**

At The PI Desk Ltd we recognise our responsibility to treat your personal information with care and to comply with all relevant legislation. For full details please refer to our Privacy Notice which governs how we use and protect your personal information. The Privacy Notice will be provided with any quotation but in the meantime it is available on request or can be obtained from our website [www.thepidesk.co.uk](http://www.thepidesk.co.uk).

**Duty of Fair Presentation and Disclosure Material Circumstances:**

Since an Insurance Contract is based upon the Duty of Fair Presentation, it is important that those seeking Insurance should provide full disclosure of any material circumstance to Insurers and that any changes to this information should be updated throughout the period of insurance. The Courts will find a circumstance to be 'material' where it would affect the judgement of a prudent Insurer as to whether or not to accept the risk at the particular terms offered. You are reminded that if you are in doubt whether or not any circumstance is material we recommend that you disclose the information to Insurers.

**Declaration**

I hereby confirm that I am authorised to complete this proposal form on behalf of all parties entitled to coverage under this insurance and understand that signing this proposal form does not bind the Proposer or the Insurer to complete and/or enter into any binding contract of insurance.

I declare that all Principals, Partners and/or Directors have read, understood and agreed that all the statements and particulars given, including those answers written for me by any other person and that to the best of my/our knowledge and belief, the contents of this proposal form, all attached additional information and other particulars which have been given separately to Underwriters and/or Insurers by me or our agents are true and complete and that no material circumstances have been omitted, suppressed, misrepresented, or misstated.

I agree that this proposal form, any additional information supplied and this declaration shall be the basis of the contract between all parties entitled to coverage under this insurance and the Insurers and I undertake to pay the premium when asked to do so.

I undertake to inform the Insurers of the change to any material circumstance that occurs prior to the point at which this insurance contract has been agreed and/or prior to the inception of the policy.

I agree that Underwriters and/or the Insurers may contact any previous Insurers for further information and/or clarification if required.

Full Name:	<input type="text"/>	Position:	<input type="text"/>
Signature:	<input type="text"/>	Date:	<input type="text"/>

N.B. APPLICATIONS MUST BE SIGNED WITHIN 30 DAYS OF THE PROPOSED START DATE AND CANNOT BE BACK DATED

***Please take a couple of minutes to check the information on the proposal form and always save a copy for your records***

Please use this space for additional information