

## Public & Product Liability Insurance Vs Professional Indemnity Insurance

**Public and Product Liability Insurance** Public and Product Liability Insurance (PPL) protects you and your business against financial loss arising from your legal liability to pay compensation to a third party when they have suffered:

- ◆ Personal Injury;
- ◆ Property Damage; or
- ◆ Advertising Injury.

in the course of your business or as a result of one of your Products.

### **Professional Indemnity Insurance**

Professional Indemnity Insurance (PI) protects you and your business against financial loss arising from a breach of your professional duty professional duty to a third party.

### **Occurrence v Claims Made**

PPL policies are written on an Occurrence basis. The policy that responds to a claim is the one that was in place when the injury or damage occurred.

PI policies are written on a claims-made basis. The policy that responds to a claim is the one that is in place when the Insured becomes aware of the claim being made against them (or a circumstance which could give rise to a claim).

### **Do I need both?**

Maybe.....

- ◆ PPL policies will only respond where there has been personal injury, property damage or advertising injury. PI policies do not require personal injury, property damage or advertising injury in order to respond (and will only respond to such claims if it arises from a breach of professional duty).
- ◆ PPL policies generally exclude coverage for claims where advice is provided by the Insured for a fee. PI policies however do not.

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# Claim Example

*The below hypothetical claims example highlights some of the differences between a PI and a PL policy.*

In 2015, a home-owner was re-landscaping their backyard and employed both a landscaper and a landscape architect to assist. The landscape architect was responsible for designing the backyard and selecting appropriate foliage that would be suited to the climate and landscape. The landscaper was employed to carry out the building works.

In 2017, two years after the landscaping was completed, two issues arose:

1. the trees the landscape architect specified for use were inconsistent with local council guidelines and were required to be removed which caused significant financial loss to the homeowner. No bodily injury, property damage or advertising injury occurred.
2. a retaining wall built by the landscaper was built in the incorrect position which resulted in water flow into the homeowner's house causing significant damage to their property.

Which Policies Would Respond to Which Issue?

## Issue 1

The first issue arises from the incorrect professional advice provided by the landscape architect and has caused financial loss to the homeowner only. In this instance, the professional indemnity insurance policy that was in place in 2017 when the issues became apparent would respond. A public liability policy would not respond as there has been no bodily injury or property damage to trigger the claim. In addition, public liability policies generally exclude coverage where claims arise from the provision of professional advice for a fee.

## Issue 2

The second issue arises from the landscaper's failure to build the retaining wall in the correct position which has caused the homeowner's property to be damaged. In this instance the public liability policy that was in place in 2015 when the work was performed would respond. The professional indemnity policy would not respond as the landscaper has not provided professional advice to the homeowner.