Gníomhaireacht Bainistíochta an Chisteáin Náisiúnta
National Treasury Management Agency

An Ghníomhaireacht um Éilimh ar an Stát
State Claims Agency

State Claims Agency

Guidance on Indemnity and Insurance

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State Claims Agency

Guidance on Indemnity and Insurance

Determining Insurance Requirements for Goods & Services RFTs and Contracts

a) Introduction

This document provides guidance on specifying and reviewing insurance requirements when developing Request for Tender (RFT) documents and entering into a contract for service[1] arrangement with a third party including multi-supplier frameworks. Please refer to **SIG-03 Use of Contractors** for further guidance on contracts for services. This document is solely for use by members of the State indemnity schemes managed by the State Claims Agency, in accordance with its mandate under the National Treasury Management Agency (Amendment) Act, 2000 (Delegated State Authorities or DSAs). The SCA does not bear responsibility for use of or reliance on the guidance by any party other than a DSA.

b) What is insurance?

Insurance is an agreement whereby one party undertakes to indemnify or guarantee another against loss by a specific contingency or peril.

Insurance is a form of risk-transfer, where an insurer accepts an unknown future risk and the insured transfers the uncertainty of a potential claim to the insurer for an agreed premium. In Ireland, motor insurance is the only complete class of insurance business which is compulsory by law.

c) Why do you need to specify and check insurance?

Insurance requirements are included in contracts to ensure that the contractor has the financial resources to respond to claims where it is found liable for negligent acts or omissions arising from the type of products/services provided and the associated risk exposures involved in performing their obligations under the contract.

Insurance requirements are intended to protect Delegated State Authorities (DSAs) from bearing the cost of claims arising from the negligent acts or omissions of contractors.

The General Indemnity Scheme (GIS), as operated by the SCA, indemnifies a DSA, its servants and/or agents, in respect of any claims for personal injury and/or third-party property damage arising from the negligence of the DSA, its servants and/or agents. This indemnity confirms to a DSA and third parties that the DSA is indemnified for its negligence when it is performing its various functions. This indemnity does not, however, extend to a third party's negligent act and therefore the third party must have adequate insurance in place. Please refer to the SCA website for further information on the principles of State Indemnity.

d) When should third party insurances be checked?

Insurance should be checked prior to entering into an agreement or engaging with a third party. If you have not arranged the contract/service with the third party directly, you should confirm that insurance has been obtained with the project coordinator.

Note: The Office of Public Works (OPW)/HSE Estates confirm the insurance arrangements for all contractors they engage.

1 **Contracts for service:** independent contractors employed to undertake a particular job. The DSA tells them what needs to be done, but the contractor decides how to complete the job and hires out their services for a fee, e.g. contractor hired to build an extension. Please refer to SIG-03 Use of Contractors for further guidance on contracts for service.

e) What other documentation should be in place?

Insurance is only one key element of a risk management strategy. Formal agreements/contracts should be in place when a third party is engaged, setting out the roles and responsibilities of all involved. Insurance is not a substitute for good risk management practices and a robust contract, which should include clauses for breach of service, insurance and indemnity clauses etc.

f) What is a Request for Tender (RFT)?

A Request for Tender (RFT) is a formal and structured invitation to suppliers to submit competitive bids to supply goods, products, or services. Insurance requirements are set out as part of the RFT process.

g) How to determine insurance requirements

One of the first tasks prior to running a procurement process/engaging a contractor is to identify the types and levels of risk that could potentially be involved in the contract. Once these are known, the level of insurance required should be assessed. The level of insurance should be appropriate to the identified risk exposure. The type of cover required depends on the service/activity which the third party is involved in/or carrying out for the DSA and should be proportionate to the risk involved.

The **Insurance Risk Assessment Template (SCA-GD-01-Form 01)** can be used to assist with determining the required insurance levels. In determining the risks associated with each contract, DSAs should consider the following:

- What could go wrong?
- Who/what could be injured/damaged?
- Is there a financial/professional risk? e.g. fraud, data protection.
- What is the cost/impact of this risk?
- How soon would the injuries/damages/fault be identified?

Please refer to **Appendix A: Types of Insurance Cover** and **Appendix B: Insurance Requirements for Requests for Tenders** for guidance on the types of insurance which may be required for the various categories of RFTs. The insurance requirements set out should be used as a guide only and each RFT should be risk assessed individually to ensure the insurance requirements are appropriate and adequate.

h) How to determine insurance requirements for low-value contracts/RFQs?

The requirement for setting insurances for Request for Quotations (RFQs) is for the DSA to determine and this is typically managed by local DSA procurement. Insurance requirements should be explored with the provider at the RFQ stage i.e. identifying the necessary insurance requirements for the contract.

Insurances should be a consideration in determining the suitable provider. The **Insurance Risk Assessment Template (SCA-GD-01-Form 01)** should be used to determine suitable cover regardless of the value of the contract.

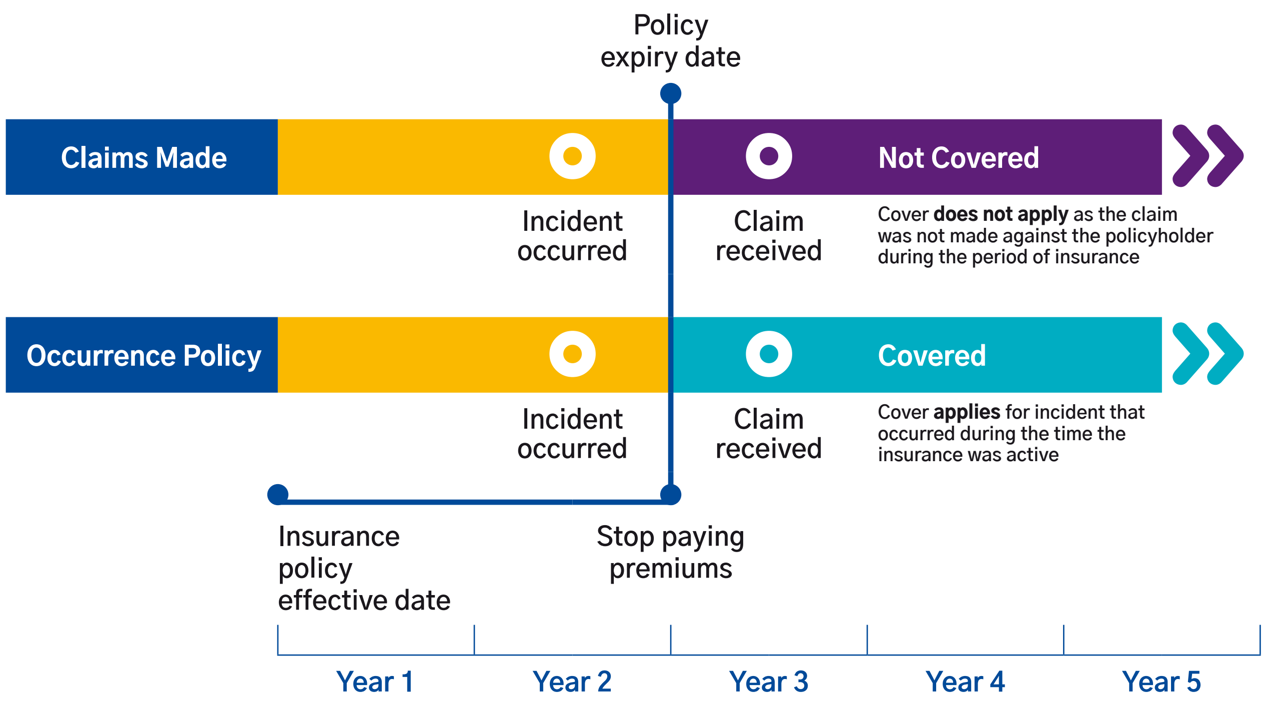
i) How long should insurance cover be in place for?

Insurance cover should be in place prior to the commencement of the contract and needs to run continuously for at least the life of the contract. Depending on the type of policy, it may be appropriate to request that the insurance cover runs for a set period after the end of the contract. This can be the case with professional indemnity insurance. This is generally offered on a ‘claims-made’ basis, which means the insurance only covers claims made (i.e. reported) within the period of the insurance cover, regardless of when an incident occurred.

A claims-made policy needs to be continuous and retrospective, so that a claim made for an historic incident is covered by the current insurance. Therefore, when assessing the risks associated with each project, DSAs should consider the need for, and length of, 'run-off' cover (see end of section for more information on 'run-off cover').

'Occurrence' policies respond to any events that occur during the period of insurance cover, regardless of when the claim is reported. Most employer's, public and products liability policies are written on this basis; however, policies should always be checked to confirm that this is the type of cover being offered.

The difference between an 'Occurrence Policy' and a 'Claims Made' policy is depicted below:



In the example above, the incident occurred in Year 2 of the policyholder's insurance policy period. The claim did not arise until Year 3. If the third party has a claims made policy in place, the policy would not respond as the claim was received outside their cover period. However, if the third party has an occurrence policy in place, the policy would respond as the incident occurred during the period of insurance.

Run off cover

'Run-off' cover provides continuing insurance cover for a period beyond the expiry date of the normal annual insurance policy. The 'run-off' cover required should be based on the risks associated with the contract. The 'run-off' period could be anything between 1-6 years.

It would be common to request 'run off cover' for professional indemnity insurance, however it can be difficult to obtain in the market. Therefore, DSAs should first consider and be clear that it is a necessary requirement of the RFT. If it is deemed necessary, a reasonable run-off period (likely between 1 and 6 years) should be decided.

j) What are liability limits?

A liability limit is the financial limit imposed by an insurer, representing the maximum amount it will pay in any particular claim/circumstance. Despite a third party having insurance cover in place, it is important to note that all the loss or damage caused by this third party will not be covered by the insurance where the liability is above the level of an agreed liability. For example, a contractor may have an insurance policy in place with an indemnity limit of €6.5m. This means that the maximum indemnity available under the policy is €6.5m. Where damages exceed this value, the costs would have to be met by the contractors themselves. DSAs must assess liability limits to ensure they are adequate for the risks associated with the contract.

Some insurance policies have aggregate limits while others have an ‘any one claim’ limit. An aggregate limit of indemnity means a total maximum limit of indemnity for any one period of insurance, regardless of the number of claims. For example, if the aggregate limit is €6.5m, this is the maximum that will be paid out on the policy regardless of the number of claims. Aggregate limits are common for product liability and professional indemnity policies.

Policies with an ‘any one claim’ limit will cover losses for any one claim or series of claims arising out of a single occurrence. Such limits are common for employer’s liability and public liability policies.

k) Should the value of a contract be used when determining insurance limits of indemnity?

Contract value should not be used when determining insurance limits of indemnity as the contract value can be completely disproportionate to the risk/loss. It is important to be aware that even low value contracts can be high risk. Each contract and the associated risks must be assessed on their own merits.

Indemnity limit exceeded example

A contractor is providing painting services on DSA premises. A visitor sustains catastrophic injuries as a result of equipment which falls from the contractor’s scaffolding. The visitor sues the contractor and is awarded damages amounting to €4.5m. However, the contractor only has public liability cover of €2.6m in place and the contractor must meet the remaining €1.9m out of their own funds. In instances where the contractor does not have adequate funds to meet this amount, the third party may pursue the DSA for the remaining amount.

l) How do you set insurance limits of indemnity for a multi–supplier framework RFT or an RFT with multiple lots?

In multi–supplier frameworks, ascertaining the risk level of a project may be challenging as the limit is based on the potential exposure and the maximum possible loss that may arise per drawdown. If the insurance limits of indemnity are set too high, it may exclude companies from the RFT and/or affect the cost. In these cases, the SCA’s advice is to set reasonable limits of indemnity for the average drawdown and specify that the DSA reserves the right to increase/ decrease the insurance requirements dependent on the nature of the services being provided. A maximum amount can also be specified where required.

Similarly, each lot of an RFT should be considered and specified separately. Risks will vary per service.

m) Will Brexit impact Northern Ireland/United Kingdom contractors?

Tenderers who obtain insurance from a UK based insurance company must confirm that the insurer is licensed[2] to operate in Ireland/European Economic Area. Additionally, the DSA should ensure the territorial and jurisdiction limits of all insurances requested apply to the Republic of Ireland.

n) Are there are any other conditions required for insurance to be specified at RFT stage?

When specifying insurance in an RFT, the following should also be considered:

- **Territorial and jurisdictional limits** to include Republic of Ireland (ROI) for tenders which are not based in the ROI.

  Territorial limits are the areas where cover will apply and the policy cover will operate.

  Jurisdiction is a clause stating that claims must be brought against the policyholder in a specified jurisdiction e.g. under Irish law. This means that although a policy might apply worldwide, the insurer will only provide indemnity for claims brought against the policyholder in the named jurisdiction.

- **Insurer Authorisation –** Insurances should be placed with an insurer or insurers authorised to operate in Ireland by the Central Bank of Ireland (or within the EU under the freedom of Services Directive). Note, some exceptions will apply where a tenderer will not be required to visit the site e.g. virtual services and product supply only.
- **Insurer Rating –** Specifying a minimum insurer rating will protect against insurers who may be in financial difficulty. It is generally recommended that an insurer should have a minimum rating of at least "A" from AM Best (or equivalent rating agency). The SCA advises caution on using this requirement for all tenders as it could exclude providers, thus it is suggested that its use be limited to high risk/high value contracts.

o) Should the contractor's financial liability be limited as part of the contract?

Limiting the contractor's financial liability can be of benefit in some instances as it ensures that your DSA receives more competitive tenders and that the commercial risk for the contractor is not unacceptable. Limiting liability creates a financial cap, which limits the total liability under the contract to a specified sum. There is no standard approach in relation to setting caps on liabilities for contracts. The limits should be proportionate to the level of risk/exposure such that your DSA will be in a position to obtain an indemnity if required. It is important to note the cap should not be related to the contract value, rather it should be related to the risks associated with the services being provided as part of the contract.

The aim should be to establish liability limits reflecting a combination of the best estimate by your DSA of the losses that might be suffered by your DSA in the event of a default by the contractor and the likelihood of those losses occurring. Your DSA should ensure that limiting a contractor's financial liability does not contradict the insurance requirements set out in the tenders or contracts e.g. employer's liability, public liability.

The terms of the limitation of liability should be set out at tender stage so that contractors can incorporate the provision into their pricing arrangements. The OGP RFT templates contain clauses for specifying liability limits (Special Condition 2 for services, Special Condition 3 for goods). Ultimately, this is a decision for the DSA and the decision should be based on the risks associated with the contract. Please also see **Appendix B: Insurance Requirements for Requests for Tenders** for further guidance on limits.

2 The Central Banks register can also be used to confirm eligibility, this is available at: http://registers.centralbank.ie/DownloadsPage.aspx under the section called Register of Life and Non-Life Insurance Undertakings.

p) The third party we are entering into the agreement with is a small business, why are the required insurance limits so high?

Although the third party you are engaging may be a small business, this does not reduce the risks associated with the contract. The insurance requirements should be based on a risk assessment regardless of the size of the business the contract is being awarded to. It is important that the business has adequate insurance cover in place to ensure it has the financial resources to respond to claims where it is found liable for negligent acts or omissions arising from the type of goods/services provided and the associated risk exposures involved in performing its obligations under the contract.

Some insurances (e.g. employer's liability (€12.7m) and public liability (€6.5m)) have standard insurance norm indemnity limits. DSAs should ensure that the insurance limits set out for other insurances are appropriate to the risks associated with the contract. The cost of obtaining insurance cover is based on a number of factors including cover and limits required as well as the company's size, risk, reputation and claims history. It is also important to ensure that indemnity limits are not excessively high as this will increase the costs associated with the contract.

q) What are policy exclusions?

Policy exclusions define circumstances or types of loss that are not covered by the policy. Policy exclusions are typically listed in the policy schedule.

r) Checking third party insurance documentation

The **Third Party Insurance Questionnaire (SCA-GD-01-Form 02)** can be provided to contractors for completion which will assist DSAs in determining the levels of cover the third party has in place. Once the relevant insurance documents are received, the DSA needs to confirm the insurance provided is appropriate. The third party may only provide an overview of cover in the form of a policy schedule and not provide the full insurance policy; however the following should be confirmed:

- **Scope/Business Description** – is the scope/business description of the insurance relevant to the contract you are entering into. For example, if a DSA is entering into a contract for taxi services, the DSA should ensure that the third party's motor insurance includes cover for use of vehicle for hire/reward.
- **Name of insured** – check that the name on the contract matches the name on the insurance policy documentation or else includes a 'trading as' statement.
- **Renewal date** – is the policy valid for the duration of the contract? Is 'run-off' cover required? See section (g) for further guidance on renewal dates.
- **Limit of indemnity** – confirm the limits specified are adequate.
- **Policy wording** – when reviewing the policy please note the following:
    - **Territorial limits and jurisdiction** – where a third party is not based in the Republic of Ireland, DSAs should confirm that the territorial limits and jurisdiction include the Republic of Ireland.

Policy exclusion example

A contractor is providing window cleaning services to a DSA. An employee of the contractor sustains serious injuries as a result of a fall from a height of 20 metres. The contractor's employee sues the contractor for loss and damages. The contractor has employer's liability cover in place, however it excludes cover for works carried out above 15 metres and the insurance policy will therefore not provide cover for the employee's claim. In instances where the contractor does not have adequate funds to meet the cost of the claim, the contractors' employee may pursue the DSA for loss and damages.

- **Excess[3] and inner[4] limits** – most policies will have an excess and/or inner limits. High limits should be considered in the context of the contract and the risk. Generally the excess should be no more than €50,000 for an SME.
- **Restrictions/Conditions[5]/Warranties[6]** – ensure there are no restrictions/ conditions/warranties which are relevant to the contract/service.

- **Sub-contractors** – if any portion of the work is subcontracted, the third party will need to confirm to the DSA that there are appropriate insurance arrangements in place for these sub-contractors. This should form part of the contract. It is not the responsibility of the DSA to check the third party's sub-contractor's insurance details, but the DSA should confirm that the necessary insurances are in place.

- **Indemnity to principals clause** – indemnity to principals is an agreement to indemnify the principal (DSA) for claims arising out of work done by the insured (third party) in connection to a specific agreement/contract. This is a requirement for public, product and employer's liability policies and third parties should confirm it is in place and applies to the DSA. This can be confirmed formally by the broker/insurer or can be included in the policy in writing.
- **Currency**: The following table sets out the equivalent value where insurances are in Sterling. Other countries may have different insurance types and covers – please consult the SCA where this arises.

Insurance	Indemnity limit Euro €	Indemnity limit Sterling £
Employer's Liability	€12.7 million	£10 million
Public Liability	€6.5 million	Approx. £5 million
Product Liability	€6.5 million	Approx. £5 million
Professional Indemnity	No standard limit, use reasonable conversion value.	

s) When do I need to contact the SCA?

DSAs do not need to contact the SCA in relation to each contract or RFT. DSAs are more aware of the risks involved in their contracts and are therefore best placed to assess the insurance requirements. DSAs should use the **Insurance Risk Assessment Template (SCA-GD-01-Form 01)** to identify the insurance requirements. Where DSAs require further guidance on insurance requirements for contracts or RFTs, please forward your query and a copy of the completed **Insurance Risk Assessment Template** to the Enterprise Risk Management Unit at **stateclaims@ntma.ie**. Please allow at least six working days for reply (Note, a longer response time may arise for complex queries).

3 An excess, or deductible, is the first part of each and every loss that is the responsibility of the insured.

4 An inner limit is an indicator of the largest payment that will be made under a specific insurance policy heading (expressed as either a monetary amount or a percentage of another limit).

5 A provision in a policy that must be complied with.

6 A term that, if broken, automatically voids the contract as a whole from the date of breach.

Appendix A: Types of Insurance Cover

The following is a summary of the common types of insurance that may be considered in the context of contractual insurance requirements. Please note the insurances listed below are not an exhaustive list. The examples provided are for illustrative purposes only.

Typical insurances required:

Employer's liability (EL)

Employer's liability (EL) covers the legal liability of an employer for bodily injury or disease sustained by an employee, and which arises out of and in the course of the employment. Employer's liability insurance is required where the third party's obligations under the contract have the potential to cause personal injury or property damage to its employees. EL insurance is required for most contracts except where the third party is self-employed. The insurance norm limit for employer's liability cover is €12.7m for any one claim or series of claims arising out of a single occurrence. Lower limits should not be accepted. In the case of other jurisdictions, the currency equivalent can be accepted i.e. Dollar or Sterling equivalent.

Employer's liability example:

An employee of a contractor providing electrical services to a DSA on DSA premises sustains injuries as a result of a fall from the contractor's defective ladder. The contractor's employee sues the contractor and the DSA for loss and damages. Assuming the DSA is not at fault, the contractor's employer's liability insurance cover should respond to both the claim against the contractor and any costs incurred by the DSA in defending its position.

Public liability (PL)

Public liability (PL) protects an insured party in respect of its legal liability to third parties for bodily injury and for any loss or damage to property which happened in connection with the insured's business. Public liability insurance is typically required for third-party contracts and is required where the third party's obligations under the contract have the potential to cause personal injury or property damage to members of the public (including DSA employees who are considered third parties in respect of the insured's contract). Where services are provided virtually or the contract is for product supply only, PL may not be a requirement. The insurance norm limit for public liability cover would typically be €6.5m for any one claim or series of claims arising out of a single occurrence although lower limits are acceptable in some cases, based on a risk assessment (e.g. €2.6 million).

Public liability example:

A contractor providing cleaning services to a DSA, on DSA premises, injures a member of the public who sues the DSA and the contractor for loss and damages. Assuming the DSA is not at fault, the contractor's public liability insurance cover should respond to both the claim against the contractor and any costs incurred by the DSA in defending its position.

Product liability (product)

Product liability insurance for all producers and sellers of goods (manufacturers, intermediaries or retailers) who may incur liability to their customers and others, for injury, illness, loss or damage arising from the supply of goods. Product liability is required where the supplier provides products (including software) that are sold or supplied as part of the contract and which could cause injury or property damage. In the case of software, where the risk of personal injury/property damage is remote, cover is not required e.g. an online software tool where there is low risk of property damage/personal injury. However software used in mechanical machinery would require cover as there is a risk of property damage/personal injury.

Product liability can be a separate policy or it can be combined with a public liability policy. The minimum acceptable indemnity limits for product liability would normally be €6.5m for any one occurrence and in the aggregate per insurance year. A lower limit may be acceptable where indicated by a risk assessment.

Typically, the manufacturer would provide cover; however, if a product is being sourced from outside the EU, under the Liability for Defective Products Act, 1991, any person who has imported the product from outside the EU is considered the producer. The supplier will be strictly liable unless he/she can identify the producer.

Product liability example:

A contractor supplies a DSA canteen with food products that cause a number of employees to sustain food poisoning. The employees sue the DSA and the contractor for loss and damages. Assuming the DSA is not at fault, the contractor's product liability insurance cover should respond to both the claim against the contractor and any costs incurred by the DSA in defending its position.

Professional indemnity (PI)

Professional indemnity (PI) protects professionals against claims, alleging that injury or financial loss, resulted from their professional actions, services or advice e.g. architect, engineer, solicitor. Professional indemnity insurance is particularly relevant where a DSA is relying upon the professional expertise of a third party.

The level of indemnity required should be based on the risks associated with the services. Limits can range from €500,000 for low risk contracts to €10m or more for large scale high risk projects. DSAs should conduct a risk assessment to identify the level of risk associated with a potential failure, delay or error in the provision of the services and this will identify the level of professional indemnity cover required. Consider the following non exhaustive list:

1. What will it cost to repair any errors? What element/proportion is the contractor responsible for? Contract value is an indicator only.
2. What other risks might arise from negligent advice, errors or omissions?
3. What contract controls are in place to mitigate the loss?

Professional indemnity limits are usually provided in aggregate amount. Cover on any one claim basis may be difficult to obtain or *may require accepting a lower limit of indemnity*. Professional indemnity insurance can be challenging to obtain (for instance, a tenderer may not be able to obtain high limits of indemnity or the cost of same may be high). Therefore, when setting limits of indemnity, ensure a risk assessment approach is taken.

There are extensions available on PI policies including cyber and employee dishonesty. However, extensions by their nature only provide a small element of additional cover to a policy (e.g. third party liability cover). A review of the extension wording would be important prior to proceeding.

Provided the annual professional indemnity insurance policy is renewed each year, 'run-off' cover is not necessary. However, if a consultant ceases to practice, or no longer continues professional indemnity cover, then the consultant should be required to purchase a 'run-off' policy that will provide a retroactive cover from the date at which the annual professional indemnity insurance policy expires. This is typically six years but, as with limits of indemnity, a reasonable approach should be taken as it may result in higher costs or contractor failure to obtain insurance.

Professional indemnity example 1:

A contractor trains DSA accounting staff in new accounting practices and the use of new software. The contractor was negligent in the advice given, resulting in significant accounting errors causing large financial losses. The DSA can seek compensation for losses from the contractor. The contractor's professional indemnity policy would respond.

Professional indemnity example 2:

A technology company designs a bespoke customer management software package. The software failed to comply with the agreed functionality. The DSA can seek compensation for losses arising due to the faulty design of the software and the third party loss of data. The technology company's professional indemnity policy would respond.

Medical Indemnity

Medical Indemnity otherwise known as medical malpractice, provides protection against the risk of medical negligence exposure.

Medical malpractice cover may include a failure to diagnose, incorrect techniques or incorrect medication/prescription.

The Medical Council has set limits for medical practitioners, as advised by the SCA.[7]

Cyber liability

Cyber liability specialist insurance which includes cover for losses that may relate to:

- Unlawful use of the computer system;
- Computer virus;
- Compensation following loss of revenue through a failure in the computer systems;
- Support and notification costs;
- Damage or costs incurred through vilification or infringement performed through computer systems or the business websites;
- Liabilities from breach of privacy or confidentiality;
- Transmission of virus or a denial of service attack;
- Cyber insurance could be required if there is a risk to the online network and the risks outlined above are applicable to the services.

Please refer to **"SIG-09 Cyber and Data Risks"** which can assist DSAs in managing and mitigating the risks associated with cyber security and data breaches within their organisation.

7 https://www.medicalcouncil.ie/registration-applications/first-time-applicants/professional-indemnity-information/ntma-list-minimum-levels-2020.pdf

Cyber liability example:

A DSA purchases a HR Payroll software system from a contractor. The DSA uses the system to store HR data for 30,000 employees and to process salary payments. A hacker breaks into the software, and accesses sensitive information regarding the 30,000 employees. The employees pursue the DSA and the contractor for costs and damages for the breach. It was deemed that the security features of the software were not adequate, so the contractor's cyber liability policy would respond. In this case, the contractor's cyber liability policy will respond to the business costs of the cyber breach which may include the loss of revenue, support and notification costs and the costs of restoring, recollecting or recreating data.

Motor

Motor third party motor cover is the only insurance cover legally required in Ireland. Motor vehicle insurance is required if the use of a motor vehicle is an integral part of the contract e.g. taxis, couriers, hauliers etc. A commercial insurance policy should provide the following cover at a minimum:

- legal liability for death or bodily injury to any person (unlimited)
- minimum limit of €1.3m for third party property damage for any one accident (increasing to €6.5m if required).

Motor insurance example:

A contractor supplies courier services to a DSA. While delivering goods on behalf of the DSA, the courier crashed into a third-party vehicle as a result of the driver's lack of care and attention. The DSA and the courier contractor are pursued for loss and damages by the third party. Assuming the DSA is not at fault, the contractor's motor insurance cover should respond to both the claim against the contractor and any costs incurred by the DSA in defending its position.

Fidelity/Crime

Fidelity/Crime protection against fraud and crime by employees and/or third parties. It is usually required for contracts which involve cash/stock. It can include dishonest trading or lending, property theft, forgery or fraudulent alteration of transaction instructions, fraudulent manipulation of computer programmes (including the introduction of computer viruses).

Considerations for requiring cover will include:

- Type of business/industry
- Do they hold stock or plant & machinery?
- Do they transact in cash?
- What risk control measures are in place?
- Contract structure and responsibilities

Indemnity Limits typically range from €500,000 to €5m. Consider the value of the contract and maximum possible single loss when determining limit. It will cover direct financial loss and consequential losses are usually fully excluded. This cover should only be requested where it is a fundamental risk to the contract, as cover can be difficult and expensive to obtain.

Note: cybercrime/social engineering fraud may be included under some cyber and data policies.

Fidelity/Crime example:

A contractor provides warehouse storage services to a DSA. It is established that one of the contractor's employees has been fraudulently stealing stock from the DSA with the total loss amounting to €100,000. The DSA would seek compensation for losses from the contractor. The contractor's fidelity/crime policy would respond.

Carriers Liability/Goods in Transit

Carriers Liability/Goods in Transit provides cover for goods that are lost/damaged or stolen while being transported. The limit of indemnity should be proportionate to the value of the goods/money being transported i.e. if the goods being transported are damaged, how much will it cost to replace them.

Carriers Liability/Goods in Transit example:

A contractor transports specialist high value medical equipment for a DSA. While transporting the equipment, the equipment was damaged resulting in the DSA having to replace the equipment. The total cost to replace the equipment amounted to €120,000. The DSA would seek compensation for losses from the contractor. Most motor insurance policies will not provide cover for goods or equipment being transported so the contractor's goods in transit policy would respond.

Other types of insurance cover which may be relevant:

Efficacy cover

Efficacy cover is designed to cover the failure of an item to perform its intended function. Efficacy cover is typically an extension to public/product liability insurance.

Efficacy cover example:

A contractor fits a fire detection system on a DSA premises. A few months later, a fire starts during the night but the fire detection system failed and did not perform its intended function. The fire causes €2m worth of damages to the DSA premises. The DSA can seek compensation for losses from the contractor as the fire detection system did not perform its intended function. The contractor's efficacy cover would respond.

Environmental Insurance

Environmental Insurance often called Environmental Liability or Pollution Insurance provides cover for losses that could be incurred as a result of pollution due to: third party or regulatory action or first party costs (i.e. DSA) such as emergency clean up, first party business interruption, etc.

Coverage extends beyond that available under standard insurance policies such as PL and property insurance and could include cover for:

- gradual and/or historical contamination/pollution;
- emergency costs/preventative measures, clean-up of own land and or controlled waters;
- works imposed by a regulator to include habitat restoration;
- Statutory charges.

Typical exclusions could include: Liability arising out of or related to asbestos or lead; damage to property belonging to the Insured excluding remediation costs or liability arising from the intentional disregard of or knowing wilful or deliberate non-compliance with any statute, regulation, instruction etc of any regulatory authority.

There are no standard limits of indemnity; DSAs should conduct a risk assessment to identify the level of environmental risk. Environmental Insurance is often included in a combined liability policy.

Environmental impairment example:

A contractor supplies waste disposal services to a DSA. While the waste is being stored at the contractor's site, it leaks over time and pollutes local water supplies. The contractor and DSA are pursued for damaging local water supplies. The clean-up costs of €500,000 are not covered under the contractor's public liability as the policy excludes demands by regulators to pay for clean-up. Assuming the DSA is not at fault, the contractor's environmental impairment policy should respond to both the claim against the contractor and any costs incurred by the DSA in defending its position.

Contractors all risks

Contractors all risks provides cover in respect of contract works, both temporary and permanent, while in the course of construction and until handed over by the contractor to the DSA, e.g. extension to a building. Contractors all risks insurance also provides cover for the contractor's property, hired-in plant and the employees' tools.

The policy limit should be sufficient to cover the full reinstatement value of the property insured.

Contractors all risks example:

A contractor is constructing a new building on behalf of a DSA. The contractor stores an excavator on site overnight which is stolen. The contractor's all risks policy would respond.

There are other insurances not covered in this guidance, (e.g. aviation/marine cover) – where these are required please contact the SCA.

Please forward your query to the Enterprise Risk Management Unit at **stateclaims@ntma.ie**.

Appendix B: Insurance Requirements – Requests For Tenders

A Request for Tender (RFT) is a formal and structured invitation to suppliers to submit competitive bids to supply goods, products, or services. The tables below set out the insurance requirements which would typically be required for the most common categories of RFTs managed by the Office of Government Procurement (OGP). **The insurance requirements set out should be used as a guide only and each RFT should be risk assessed individually to identify the levels of insurance required.** Insurance limits are advised off current market rates however the insurance market is ever evolving and changing. For high-value complex RFTs please contact the SCA. For guidance on insurance requirements for construction projects, please refer to **www.constructionprocurement.gov.ie**.

EL = Employers liability, **PL** = Public liability, **Product** = Product liability, **PI** = Professional indemnity

Facilities Management, Maintenance	
Service	**Recommended Insurance Requirements**
a. Building Maintenance	**EL:** €12.7m, **PL:** €6.5m, **Contractors all risks:** Risk assessment will indicate limit, if required. **PI:** Risk assessment will indicate limit, if required **Note:** Product liability insurance required if the contractor is supplying products as part of the services.
b. Catering Equipment/Supplies	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.
c. Catering Services	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.
d. Cleaning/ Equipment/ Supplies	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.
e. Cleaning Services	**EL:** €12.7m, **PL:** €6.5m.
f. Document Management	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required **Note:** Motor insurance and goods in transit insurance would be required if the contractor is physically transferring documents from DSA premises. Cyber liability insurance would also be required if there is a risk to DSA online network e.g. electronic document management systems.
g. Fittings/Furnishings	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m
h. Health and Safety (incl. PPE or safety products)	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m **(if PPE or safety products)** **PI**: Risk assessment will indicate limit, if required.

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Facilities Management, Maintenance	
Service	**Recommended Insurance Requirements**
i. Laundry Services	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m Risk assessment will indicate if required.
j. Security Services	**EL:** €12.7m, **PL:** €6.5m, **Crime/fidelity** insurance would be required if the contractor's employees will have access to value items. **Note:** Motor insurance and goods in transit insurance would be required if the contractor is physically transferring goods on behalf of the DSA.
k. Uniforms/Clothing	**Product:** €6.5m supply only. **EL:** €12.7m, **PL:** €6.5m if includes on site work e.g. cleaning.
l. Waste Management	**EL:** €12.7m, **PL:** €6.5m, **Environmental:** with a level of indemnity appropriate to the environmental risks.
Note: Cyber insurance should be requested for items f. and j. above if there is a risk to the DSA online network. For further assistance please refer to the **Insurance Risk Assessment Template SCA-GD-01-Form 01**.	

Energy	
Service	**Recommended Insurance Requirements**
a. Electricity	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m, **PI:** Risk assessment will indicate limit, if required.
b. Gas	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.**, PI:** Risk assessment will indicate limit, if required.
c. Fuel	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.**, PI:** Risk assessment will indicate limit, if required.

Professional Services	
Service	**Recommended Insurance Requirements**
a. Actuarial Services	**EL:** €12.7m, **PL:** €6.5m, **PI, Cyber:** Risk assessment will indicate limit, if required
b. Advisory Services	**EL:** €12.7m, **PL:** €6.5m, **PI, Cyber:** Risk assessment will indicate limit, if required
c. Architecture Services	**EL:** €12.7m, **PL:** €6.5m, **PI**: Refer to OGP Construction guidance.
d. Audit Services	**EL:** €12.7m, **PL:** €6.5m, **PI, Cyber:** Risk assessment will indicate limit, if required
e. Banking Services	**EL:** €12.7m, **PL:** €6.5m, **PI, Cyber:** Risk assessment will indicate limit, if required
f. Financial Services	**EL:** €12.7m, **PL:** €6.5m, **PI, Cyber:** Risk assessment will indicate limit, if required
g. Insurance Brokerage (excluding underwriting)	**EL:** €12.7m, **PL:** €6.5m, **PI:** Min. cover of €1m or risk assessment may indicate higher.
h. Legal Services	**EL:** €12.7m, **PL:** €6.5m, **PI**: Min. cover of €1.5m or risk assessment may indicate higher.
i. Quantity Surveying Services (as covered under Architect Led Design Team Services)	**EL:** €12.7m, **PL:** €6.5m, **PI**: Refer to OGP Construction guidance
j. Research Services	**EL:** €12.7m, **PL:** €6.5m **PI, Cyber:** Risk assessment will indicate limit, if required
Note: Cyber insurance should be requested if there is a risk to the DSA online network. For further assistance in assessing PI and cyber liability please refer to the **Insurance Risk Assessment Template SCA-GD-01-Form 01.**	

Fleet/Plant	
Service	**Recommended Insurance Requirements**
a. Maintenance	**EL:** €12.7m, **PL:** €6.5m, **Contractors all risks:** Risk assessment will indicate limit, if required. **PI:** Risk assessment will indicate limit, if required **Note:** Product liability insurance required if the contractor is supplying products as part of the services.
b. Other Plant (Lifter, Generator, etc.)	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m, **PI:** may be required if specifying, installation and training.
c. Vehicle Purchase	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m. **PI:** may be required if specifying, installation and training.
d. Vehicle Fit Out (e.g. Ambulance)	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m, PI: may be required if specifying, installation and training.
e. Vehicle Rental/ Leasing/Fleet Hire	**EL:** €12.7m, **PL:** €6.5m, **Motor:** Dependent on the nature of the service provided. Contact SCA for further information.
f. Tools and Hardware	**Product:** €6.5m supply only. **EL:** €12.7m, **PL:** €6.5m if includes on site work e.g. training and fitting **PI:** may be required if specifying, installation and training.

Market Print and Stationary	
Service	**Recommended Insurance Requirements**
a. Media Buy and Advertising	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
b. Creative Services	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
c. Promotional Events	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
d. Communication	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
e. Public Relations	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
f. Marketing/Printing	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m
g. Office Printing	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m
h. Production Printing	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m
i. IT Consumables	**Product:** €Xm* if supply only. If more provided **EL:** €12.7m, **PL:** €6.5m
j. IT Peripherals	**Product:** €Xm* if supply only. If more provided **EL:** €12.7m, **PL:** €6.5m
k. Office Supplies	**Product:** €Xm* if supply only. If more provided **EL:** €12.7m, **PL:** €6.5m

Note: Cyber insurance should be requested for items a. and f. above if there is a risk to the DSA online network. For further assistance please refer to the **Insurance Risk Assessment Template SCA-GD-01-Form 01**.

* **An appropriate product liability limit to be determined by a risk assessment.**

Travel HR and Managed Services	
Service	**Recommended Insurance Requirements**
a. Employee Assistance Programme	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
b. Health and Safety	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
c. Recruitment	**EL:** €12.7m, **PL:** €6.5m, **PI**: Risk assessment will indicate limit, if required.

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Travel HR and Managed Services	
Service	**Recommended Insurance Requirements**
d. Training	**EL:** €12.7m, **PL:** €6.5m, **PI:** Risk assessment will indicate limit, if required.
e. Transport	**EL:** €12.7m**, PL:** €6.5m**, Motor:** Unlimited indemnity in respect of third party personal injury and a third party property damage limit of not less than €6.5m for any claim or series of claims arising out of one incident. A minimum limit of €1.3m may be appropriate for larger commercial vehicles e.g. hauliers. **Goods in Transit:** With a limit appropriate to the value of the goods being transported.
f. Travel Management Services	**EL:** €12.7m, **PL:** €6.5m. **PI:** Risk assessment will indicate limit, if required.
g. Rail	**EL:** €12.7m, **PL:** €6.5m.
h. Road (Taxi and Bus Hire)	**EL: €12.7m, PL:** €6.5m, **Motor:** Unlimited indemnity in respect of third party personal injury and a third party property damage limit of not less than €6.5m for any claim or series of claims arising out of one incident.
i. Temporary Staff/ Contractors	**EL:** €12.7m, **PL:** €6.5m, **PI:** Dependent on contract type. Please refer to **SIG-03 Use of contractors** for further guidance.
j. Couriers	**EL:** €12.7m, **PL:** €6.5m, **Motor:** Unlimited indemnity in respect of third party personal injury and a third party property damage limit of not less than €6.5m for any claim or series of claims arising out of one incident. A minimum limit of €1.3m may be appropriate for larger commercial vehicles e.g. hauliers. **Goods in Transit:** With a limit appropriate to the value of the goods being transported.
k. Outsourced Services	**EL:** €12.7m, **PL:** €6.5m, **PI:** Risk assessment will indicate limit, if required.
Note: PI cover is not required if the supplier is strictly supplying products only. If they are also providing professional services (e.g. training), PI cover would be required. **Note:** Cyber insurance should be requested for items a–d above if there is a risk to the DSA online network. For further assistance please refer to the **Insurance Risk Assessment Template SCA-GD-01-Form 01.**	

Information Communication Technology and Office Equipment	
Service	**Recommended Insurance Requirements**
a. ICT Infrastructure	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m, **PI**: Risk assessment will indicate limit, if required.
b. Hardware and Office Equipment	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.
c. Software	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m where injury or damage is a risk.
d. ICT Professional Services	**EL:** €12.7m, **PL:** €6.5m, **PI**: Min. cover of €1m or the value of the contract where > than €1m. Risk assessment may indicate that a higher limit is required.
e. Telecoms – Data	**EL:** €12.7m, **PL:** €6.5m,
f. Telecoms – Equipment	**EL:** €12.7m, **PL:** €6.5m, **Product:** €6.5m.
g. Telecoms – Mobile	**EL:** €12.7m, **PL:** €6.5m
h. Telecoms – Voice	**EL:** €12.7m, **PL:** €6.5m
Note: If they are also providing professional services (e.g. training), PI cover would be required. **Note:** Cyber insurance should be requested if there is a risk to the DSA online network. For further assistance in assessing PI and cyber liability please refer to the **Insurance Risk Assessment Template SCA-GD-01-Form 01**.	

Note: the above are recommended insurance requirements for the services outlined. Additional insurances may be required dependent on the service(s) being provided. DSAs should carry out a local risk assessment accordingly.

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