

COMMERCIAL

Interior design

The essential guide for Middle East interior design professionals

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Fully insured?

WHAT YOU NEED TO KNOW
ABOUT YOUR PI POLICY

· SPECIAL ISSUE ·

In the fast lane

DIAR CONSULT ON ITS BMW
AND MINI SHOWROOMS



O B J E C T S O F
DESIRE

JOIN US IN A CELEBRATION OF ALL THINGS INSPIRATIONAL



Got it covered?

MORE AND MORE INTERIOR DESIGNERS IN THE MIDDLE EAST ARE TURNING TO PROFESSIONAL INDEMNITY (PI) INSURANCE, TRADITIONALLY ONLY USED BY LAWYERS AND DOCTORS



Mistakes happen. Even the most skilled professional cannot confidently say they never have and never will make a mistake in their line of business. This could be a simple oversight, to a miscalculation, or merely taking your eye off a subcontractor for a few hours. You can't be in all places at once right? So what would you do if this error caused one of your clients a financial loss? Do you take it on the chin, make your apologies, hope they forget about it and move on? In an idyllic utopia you probably could, but unfortunately, events don't often turn out like that.

Traditionally, a Professional Indemnity (PI) policy, or Professional Liability or Errors & Omissions PI, was a cover for professions such as lawyers, doctors and accountants. However, interior designers have been moving further to the front of the line in this regard and it is fast becoming commonplace to have this cover as a contractual mandate from clients.

According to Ian Campbell, underwriter, Chartis Insurance, as an interior design firm grows and becomes more successful, it may not be able to personally oversee every aspect of a job. PI policies cover mistakes made by the designer and their colleagues as well as those of independent contractors.

A General Liability (GL) policy will not pick up professional liability exposures. A GL policy primarily covers

bodily injury and property damage and contains a specific exclusion for professional services or advice rendered.

"A PI policy responds to claims made by your clients for financial loss they have suffered as a result of the services they have paid you to carry out. It also provides cover for allegations of negligence, even in situations where you feel you fulfilled the brief you given," said Campbell.

"In its simplest form, a PI policy could be triggered through a letter written by your client requesting that you indemnify them for X amount. In this instance an insurer can step in providing you with legal assistance and advice whilst supporting you out of this situation as best as possible. The policy will pick up the legal defence costs that can quickly mount up when defending a claim or allegation and will pay out for any damages you are required to pay. The premium is an annually payable amount allowing you to ring fence these exposures into one known figure."

Liability and liability insurance is often misunderstood, claims Brian Hillesdon, MD, dwp (design worldwide partnership), particularly by designers, more alarmingly by their managers, and most frustratingly by clients.

"Regardless of insurances or contracts, design consultancies are liable for their designs. Full stop.

"Failures, error or omissions in their designs can lead to compensation claims from clients.

1
Brian Hillesdon.

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Karen Hay.

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Ian Campbell.

“This is a risk that all design consultancies live with. The consequences of mistakes vary depending on the type of designer - structural engineers’ mistakes can be quite spectacular; but do not underestimate the risks on an interior designer,” he added.

Hillesdon said in a recent case study reported in the UK, an unacceptable detail in a hotel room, not realised until after the hotel opened, led to re-work by the contractor on hundreds of hotel rooms, at hundreds of thousands of pounds cost to the design consultancy.

A well known case, here in the UAE, involved a designer reversing the glazing on a twin tower development to obtain a better visual colouring. This also altered the thermal performance of the glazing, resulting in increased heat gain in the huge atrium, resulting in replacement of the chiller units with

passed on to the client via consultant’s fees. Some clients take a very sensible view on this subject and choose to carry their own insurances, on behalf of their consultants. Clients with potentially very big financial risks typically do this – for example oil and gas plant operators and airport operators. Masdar also sometimes do this.”

Karen Hay, director/founder, Stickman, said her firm gets minimum blanket cover for its projects, spending US\$2million as an annual blanket, not project specific.

“As a small to medium sized interior design consultancy we have an international annual blanket policy to cover all projects, and working on tight budgets we keep it to a minimum. However, we are increasingly coming across requests from clients for hugely inflated PI insurance cover, here in the

“The policy also had to cover the period of the contract and 10 years following the end of the contract period. This is excessive given that most of our projects are stripped out and renovated within five to eight years. Very seldom would one of our projects reach a lifespan of 10 years. That’s just the nature of hospitality.”

Campbell said a PI policy is not going to erase a mistake but it can alleviate the probable drama ensuing with a client. It can help you save face and keep the relationships you have been developing whilst not denting your bottom line.

“It allows you to focus on your core business and not become embroiled in lengthy and expensive proceedings. Whilst most designers are fortunate enough not to be sued in relation to their services, those that have been know the benefit of having somebody else take care of the situation,” he said.

One claim he saw was when a local interior design company was hired by a newly built hospital. One element of the job required all the hospital corridors to be fitted with strong skirting boards and wall covers due to the risk of gurneys knocking and chipping the walls. Once all the boards and covers had been delivered it realised they could only be fitted to straight corridors, not any of the curved corridors or round spaces in the hospitals, as the material was not flexible.

The designer was liable for this error and the subsequent delay in development and made to replace them all.

“It is prudent to double check your policy gives you full cover on the areas where you will need it, for whichever discipline you perform as some policies are very generic,” said Campbell.

“Is it fair that the client has to insure his own risks,” said Hillesdon, “even if caused by other parties? Well yes it is, and it is common in every day life. For example if a head lamp fails on your car and causes you to crash, you will claim from your own car insurance. You are unlikely to claim from the bulb manufacturer. Likewise for designers, they must carry liability for their direct actions, but must try to limit the value and omit consequential damages. **ED**”

“Liability and liability insurance is often misunderstood by designers, more alarmingly by their managers and most frustratingly by clients”

larger capacity ones, and charged to the designer.

“The financial limit of liability can be controlled by contracts. Design consultancies are always prudent to try for the lowest limit of liability they can negotiate; clients the highest. Reasonableness must be adopted: UAE courts will over-rule unreasonable limits of liability, so it does not pay for designers to try to get unreasonably small limits included in contracts. Likewise, unreasonably large limits requested by clients are likely to get overruled by the courts, but this is more of a risk for the design consultancies,” he added.

“Some clients insist on unlimited liability, clearly unreasonable and, frankly, naïve. It simply would not work for a client to assume each of his designers was liable for the possible consequential damages that he may contribute to.

“All designers would then carry very high insurance costs, which would be

UAE moreover than overseas projects,” she said.

“For an interior design company, rule of thumb for the cover is usually twice or thrice the value of fees on your largest project per fee value. However, we are often asked to cover the value of the entire project. On the same project where the client has insurance, the contractor has insurance, every other consultant has insurance and you have a domino effect whereby the insurance companies are making millions.

“One client recently requested a high PI insurance, public/third party liability insurance, employer’s liability insurance and motor vehicle insurance, collectively more than 70% the value of our existing cover. However, the upside was that they also stated that if the insured amount exceeded the tenderers cover at the time of the RFP the client would pay the difference on the addition cost to cover the value of the new policy.