

## Open session

**Board meeting:** 19 October 2022

**Agenda item:** 7

**Subject:** Professional indemnity insurance guidance

**Action:** For decision

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### Purpose

To consider the consultation responses to ARB's draft professional indemnity insurance guidance and approve the new guidance for publication.

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### Recommendations

It is recommended that the Board agrees to publish the professional indemnity insurance consultation report and approves the guidance at **Annexe B**.

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### Annexes

Annex A – PII Consultation Report

Annex B - Draft professional indemnity insurance guidance

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## **1. Open/Confidential Session**

Open session

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## **2. Background and Key points**

- 2.1. Professional indemnity insurance is a form of insurance cover that provides financial protection to architects if a claim is brought against them or their practice.
- 2.2. In addition to the financial security it offers architects, it also has an important role to play in public protection. Because construction claims are so costly both in terms of litigation and settlement, an uninsured claim is quite likely to leave many architects practices unable to pay the sums involved. The result of this would be insolvency, or more likely, no sensible client being able to initiate the claim at the outset, knowing that there would be no way of securing compensation even if they were successful. In effect, an uninsured project will leave a client or future user of a building without means of redress if they have claim of negligence.
- 2.3. Because of this, ARB has historically placed significant importance on architects carrying sufficient PI cover to meet a claim. For the last 20 years architects have been expected to hold adequate and appropriate professional indemnity insurance cover under the Architects Code of Conduct and Practice. Details of what PII is likely to be deemed 'adequate and appropriate' have been set out in underpinning guidance as to how compliance with the Code can be achieved.
- 2.4. While the expectation that adequate and appropriate insurance must be maintained has not changed, since 2002 the guidance issued has become increasingly less prescriptive. We have recognised that ARB is not an insurance expert, and that the diversity of practice and risk means that it's not appropriate for us to provide detailed requirements on what cover must be held. Specialist brokers or membership bodies are better placed to provide detailed advisory services. We no longer, for example, set out the levels of cover to be held based on turnover, or mandate detailed policy wording.
- 2.5. Disciplinary cases in the last 15 years for failing to insure properly have been consistent, though not alarming. Those cases have usually involved a failure to notify, or a failure to carry any insurance when carrying out 'private' work. There has been scant evidence of 'under-insurance', where an insurance policy has been in place.
- 2.6. It may well be that this lack of under-insurance has been the result of a 'soft' PI market, in which there has been plentiful insurance available from numerous providers, all seeking business. This has meant advantageous terms have been on offer to architects, at a low cost.


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- 2.7. Those market conditions have dramatically deteriorated over the last five years. A global downturn in the PI market has coincided with a reassessment of risk in the construction market by insurers, following Grenfell and the cladding crisis.
- 2.8. The causes and solutions to these problems are complex and multi-faceted, but the net result is that PI market for architects has constricted, causing an increase in premiums and a restriction in the terms being offered. There are now widespread exclusions being applied to cladding, fire safety and building safety issues. Exclusions are also being applied to historic liabilities, as insurers seek to limit their exposure to the consequences of the much-publicised failings of the construction industry.
- 2.9. While there have been numerous attempts to accurately map the availability of PII for architects, results have been inconclusive. ARB carried out a survey of architects in May 2020, which suggested that while premiums were increasing, there was no significant market failure. Subsequent RIBA and Construction Leadership Council surveys painted a bleaker picture. Because of the competitive nature of the insurance market, accurate and comprehensive data is generally not publicly shared by underwriters.
- 2.10. What has become increasingly clear is that comprehensive cover for fire safety and cladding related claims is no longer available. Retrospective cover for these types of claims cannot generally be bought, and there are wide exclusions and limitations in respect of future work.

#### Proposed Guidance

- 2.11. The new guidance proposed a relaxation in the type of cover required in respect of certain areas of practice, in that could be held in the aggregate (as opposed to on an each-and-every claim basis). While acknowledging that this creates a risk of an architect's practice facing multiple claims quickly reaching the limit of their indemnity and be effectively uninsured, the more comprehensive cover is generally unavailable. We believe that this is a proportionate change, balancing the need to provide protection for consumers and the public, while recognising the reality of the current PII market. It is no longer tenable to require architects to hold insurance that cannot be purchased.
- 2.12. The new guidance also proposed to maintain the minimum level of cover at £250,000, and that despite changes in legislation extending periods of liability, that run-off over should be maintained at a minimum of six years.

#### Consultation

- 2.13. The consultation report is at **Annex A**.

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- 2.14. The response to the proposed guidance was mixed. There was an acknowledgement that the new guidance better reflects the reality of the PI market, and so is an improvement on the existing guidance. It was positively received by professional bodies representing architects and insurers.
- 2.15. It is however clear that the difficulties that architects are facing in securing adequate, affordable professional indemnity insurance are significant, and that is having an impact on their ability to practice. We heard from consultees that ARB's new guidance will have little impact on mitigating those difficulties, and that more leadership is required on behalf of the profession to develop solutions to the insurance crisis.
- 2.16. Taking into account the consultation responses, some further edits to the proposed guidance have been made for purposes of clarity. The proposed guidance is at **Annex B**.
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### **3. Risk implications**

- 3.1. The lack of available PII is a primary regulatory risk. While the cladding crisis has heightened the chances that architects will face a claim in respect of work carried out, a fully comprehensive mitigation against that risk is now widely unavailable.
- 3.2. The right balance must be struck between requiring architects to carry sufficient PII to meet a claim, against creating a regulatory environment which excludes some from the profession.
- 3.3. For most architects, the existing guidance is unachievable. It is therefore important that new guidance is published without delay.
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### **4. Communication**

- 4.1. It is important that architects are aware of any changes to their responsibilities. We will communicate the updated guidance directly to all architects through ARB Insight, and will also send it to relevant stakeholders. RIBA helped to promote the consultation, so we hope they will continue to help disseminate the outcome of the work. We will also share it through all our social channels.
- 4.2. Alongside the publication of this guidance, which explains how architects should act in respect of PII to remain compliant with the Code, we will publish advice and Frequently Asked Questions to assist them in securing appropriate cover to manage their risks. In doing so we will seek the input of experts.



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**5. Equality and Diversity implication**

- 5.1. No positive or negative impacts arising from the adoption of this policy have been identified in respect of any particular group. The new guidance simply reflects the realities of the PI market.

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**6. Recommendations**

- 6.1. It is recommended that the Board agrees to publish the professional indemnity insurance consultation report and approves the guidance at Annexe B.
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# Guidance for Professional Indemnity Insurance

Analysis report on ARB's Professional Indemnity Insurance consultation

May – July 2022

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# Executive Summary

As the regulator for architects, we have a key role in public protection. One of the ways in which we do this is by expecting architects to hold adequate and appropriate professional indemnity insurance (PII) under the Architects Code of Conduct and Practice. We publish guidance on how we expect architects to fulfil their professional obligations in respect of PII. PII helps to ensure that if a construction project goes wrong, those parties who suffer loss can make a claim to provide for the remedies and be adequately compensated.

The insurance market is experiencing difficulties as a result of global economic factors and much publicised failings within the built environment. These difficulties have led to a reduction in the amount of PII cover available to architects. One of the consequences of this shift in market has been that there have been changes in the insurance available to architects to protect them against claims. This means that our existing guidance is no longer always achievable for many architects.

We have therefore engaged with insurers, professional bodies and architects to develop new guidance on the PII arrangements that architects should have in place. We consulted on the new approach for seven weeks – from May to July 2022.

Consultees were asked to provide their views on the following proposed key changes in the guidance:

- 1) That the insurance cover in respect of fire safety claims and cladding claims be relaxed, to reflect the realities of what is currently available
- 2) That it will not be a matter of misconduct for if an architect is unable to secure cover for existing liabilities, if that insurance is no longer commercially available
- 3) That the minimum level of cover be held at £250,000
- 4) That the minimum the run-off cover period should remain at six years (or five years in Scotland)

We received 320 unique responses in total, over 90% of which were from architects. We also received consultation responses from professional bodies and representatives of the insurance industry.

Respondents had mixed views on the proposed new guidance, but there was recognition that the changes, once implemented, would better reflect the realities of the insurance market.

It was clear from the consultation responses that there remains significant concern over the availability of PII. Of the 293 architects who took part in the consultation, 44% thought the requirement to hold insurance to carry out any work would negatively impact on their practice.

While over 50% were unsure whether the proposed changes would improve access to insurance and still offer adequate protection to clients and consumers, 25% of respondents thought the changes would assist them.

Feedback from consultees was that ARB should continue to set a minimum level of cover at £250,000 for all architectural work, but that guidance should stress the importance of considering the scale and risks of the before deciding on the appropriate levels of insurance.



A large majority, 85%, agreed that run-off cover should be maintained for a minimum of six years.

As a result of the feedback received through the consultation, the proposed changes will be incorporated into the guidance.<sup>1</sup>

Overall, however, it is clear from the responses that the limited supply of affordable and comprehensive insurance continues to cause significant difficulties to the profession. Our guidance cannot change these market-wide problems that architects face. Because of that, while we hope the publication of our new guidance will provide some relief to architects and clarity to the insurers, it will not be the conclusion of the work we carry out to help the sector look for solutions to the PII crisis.

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<sup>1</sup> **Note to the Board:** this is the executive's recommendation, presented as a decision so that you can review the report. If the Board decides otherwise, this will be amended.

# Chapter One: Introduction

## ARB's role

- 1.1 Architects play a crucial role in creating a built environment that is safe, sustainable and where everyone in society can live well.
- 1.2 ARB is an independent professional regulator, established by Parliament as a statutory body, through the Architects Act, in 1997. We are accountable to government. The law gives us a number of core functions:
  - To ensure only those who are suitably competent are allowed to practise as architects. We do this by approving the qualifications required to join the UK Register of Architects.
  - We maintain a publicly available Register of Architects so anyone using the services of an architect can be confident that they are suitably qualified and are fit to practise.
  - We set the standards of conduct and practice the profession must meet and take action when any architect falls significantly below the required standards of conduct or competence.
  - We protect the legally restricted title 'architect'.

## Changing context

- 1.3 Architects are expected to hold adequate and appropriate professional indemnity insurance (PII) cover under the Architects Code of Conduct and Practice. The requirement to have adequate and appropriate indemnity insurance is something most UK professional regulators require of their registrants.
- 1.4 PII is an important protection to provide reassurance for architects, their clients, and future occupiers of buildings. PII helps to ensure that if a construction project goes wrong, those parties who suffer loss can make a claim to provide for the remedies to be rectified and be adequately compensated.
- 1.5 In recent years the insurance market has experienced significant difficulties that has led to widespread restrictions on the type of cover that is generally available.<sup>2</sup> This has, in part, been as a result of global economic factors and a reappraisal of risk in the construction sector following the discovery of widespread unsafe cladding on buildings. There are many different insurers in the architectural PII market, all of which have differing risk appetites and commercial interests, each insuring a diverse profession with a wide range of insurable risks. The complexity of the insurance market means that it is not easy to establish what cover is available, to whom, and at what cost.

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<sup>2</sup> Architects PII Insurance Study May 2020: <https://arb.org.uk/wp-content/uploads/ARB-PI-Insurance-Report-for-website.pdf>

- 1.6 These changes in the market have made it increasingly apparent that our existing PII guidance is no longer achievable for all architects, simply because the cover required is no longer generally available on the market.
- 1.7 Following a period of stakeholder engagement, including a round-table event with insurers, professional bodies and architects, we proposed new guidance to architects on what PII arrangements they should have in place to meet their professional obligations.

## **Our proposals**

- 1.8 In May 2022 we launched a consultation on proposed new guidance for PII.<sup>3</sup> The new draft guidance describes the insurance arrangements architects are expected to have in place to remain compliant with the Architects Code of Conduct.<sup>4</sup>
- 1.9 In our proposals for the updated guidance:
- It remains the case that architects should have adequate and appropriate insurance before undertaking any new work, but coverage for certain types of claims – including fire-safety and cladding – can now be held in the aggregate and limited to direct loss.
  - It will no longer be a matter of misconduct for architects who, despite making reasonable efforts, are unable to acquire insurance to cover historic liabilities because that insurance is no longer generally available.
  - The minimum level of cover below which no architect should accept remains at £250,000 for each and every claim. The rationale for this figure was based on the potential financial impact of even the smallest project being subject to a claim, and that a lower level of cover would result in only negligible savings on the premium. It is a figure that has been in place for over 15 years.
  - To maintain the minimum period of run-off cover to be six years (or five years for contracts in Scotland). This would be despite the extension of liability in relation to some claims being extended to 30 years in England as a result of legislative changes caused by the Building Safety Act.
- 1.10 The consultation invited consultees to share their comments and views on our proposed changes to PII guidance.

## **How we analysed responses**

- 1.11 The survey was comprised of five questions, in addition to some basic questions to understand who was responding. Four were a mixed format in which respondents could answer a multiple-choice element and also share their views in a written response. The fifth one was an ‘open’ question inviting a written response.<sup>5</sup>

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<sup>3</sup> ARB’s Professional indemnity insurance guidance [Draft-PII-Guidance-for-consultation.pdf \(arb.org.uk\)](#)

<sup>4</sup> Architects Code: Standards of Conduct and Practice [Architects Code: Standards of Conduct and Practice - ARB](#)

<sup>5</sup> The question numbers are taken directly from the survey. Earlier numbered questions asked respondents for details about who they are, demographic information, and details about how we could handle their response.

**10. We have changed the guidance to allow cover in respect of fire-safety and cladding claims to be held on an aggregate basis and limited to direct loss.**

**Will this improve architects' access to professional indemnity insurance?**

*Respondents were invited to select one of the following options: Yes, No, Unsure. Respondents were then invited to explain the rationale for their response into an open text box.*

**Will this reduction in cover still offer adequate protection to clients or consumers wishing to make a claim?**

*Respondents were invited to select one of the following options: Yes, No, Unsure. Respondents were then invited to explain the rationale for their response into an open text box.*

**11. The minimum level of cover below which no architect should accept remains at £250,000 for each and every claim.**

**Is that level of cover still appropriate to cover the lowest risk architectural practices?**

*Respondents were invited to select one of the following options: Too high, Too low, Shouldn't be a level at all. Respondents were then invited to explain the rationale for their response into an open text box.*

**12. The Building Safety Act extends the period of liability for some claims to 30 years. We believe that requiring architects to maintain run-off cover for a period longer than six years would be disproportionate to the risks involved.**

**Do you agree the minimum amount of run-off cover should remain at six years?**

*Respondents were invited to select one of the following options: Yes, No. Those who responded 'No' were invited to suggest a minimum amount into an open text box.*

**13. ARB guidance states that it is unacceptable for architects to carry out any work for which they are uninsured. Given the changes to the availability of insurance, what impact does ARB's requirement have on your practice?**

*Respondents were invited to select one of the following options: It will have a positive impact on my practice, It will have little impact on my practice, I am concerned that it will negatively impact my practice. Respondents were then invited to explain the rationale for their response into an open text box.*

**If there are exclusions on your policy, please outline whether you are able to continue to practice and the nature and/or extent of the modifications you have made to your practice in order to be compliant with your insurance.**

*Respondents were invited to write a response into an open text box.*

**14. Do you have any other suggestions as to how the draft guidance could be improved? Where possible, please refer to the paragraph number of the text in the draft guidance.**

*Respondents were invited to write a response into an open text box.*

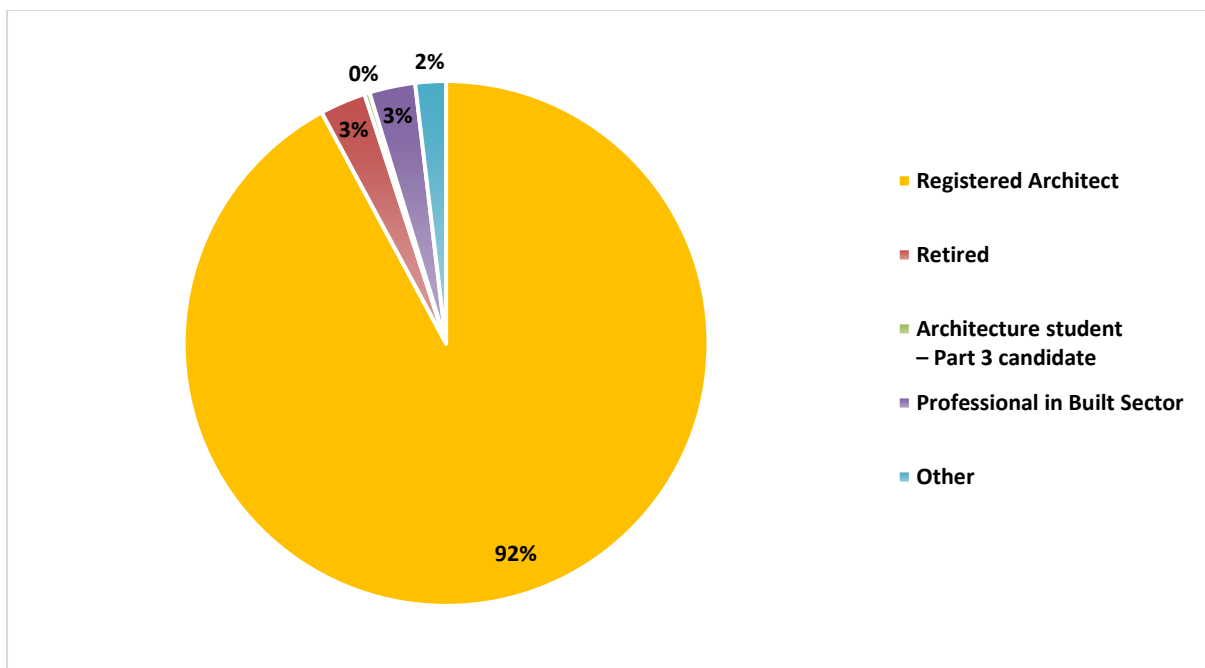
- 1.12 We undertook quantitative analysis of all closed, multiple-choice questions. This provided insight into the proportions of respondents that agreed with our proposed updates to the PII guidance. We also analysed variation in these responses between distinct groups.
- 1.13 We used qualitative research methods to analyse the responses to the questions that allowed respondents to provide written responses. This involved identifying, and then applying, a list of themes that we noted as recurring across responses. The list of themes was generated by the respondents; we did not have any predetermined topics that we wanted to analyse, and instead based our analysis on the topics and suggestions most commonly raised in written responses. In this summary report, when we say that a topic was raised a certain number of times or refer to instances of that topic being discussed, the numbers refer to the number of respondents who raised that topic, not how many times that respondent may have raised it.

# Chapter Two: Who responded

2.1 We received 320 unique responses.

2.2 Respondents were asked to identify themselves across eleven categories, including demographic information and their practice. Of the 318 respondents who provided a response as to their professional role, the majority of respondents were registered architects (293) accounting for 92% of survey responses. Nine respondents were retired architects, nine were from professions within the built sector and one was an architecture student – Part 3 candidate. There were six respondents who stated ‘other’ as their occupation. (See Figure 2.1)

**Figure 2.1: Survey respondents by stakeholder groups (% of respondents)**



2.3 There were 173 (54%) responses made on behalf of organisations. 170 were architectural practices, with the remaining three from professional bodies.

2.4 The three responses made on behalf of representative bodies and organisations gave permission for their response to be published. They were:

- International Underwriters Association (IUA)
- Royal Institute of British Architects (RIBA)
- The Royal Incorporation of Architects in Scotland (RIAS)

2.5 A complete list of all respondents who agreed to be identified is included in **Annex A**.

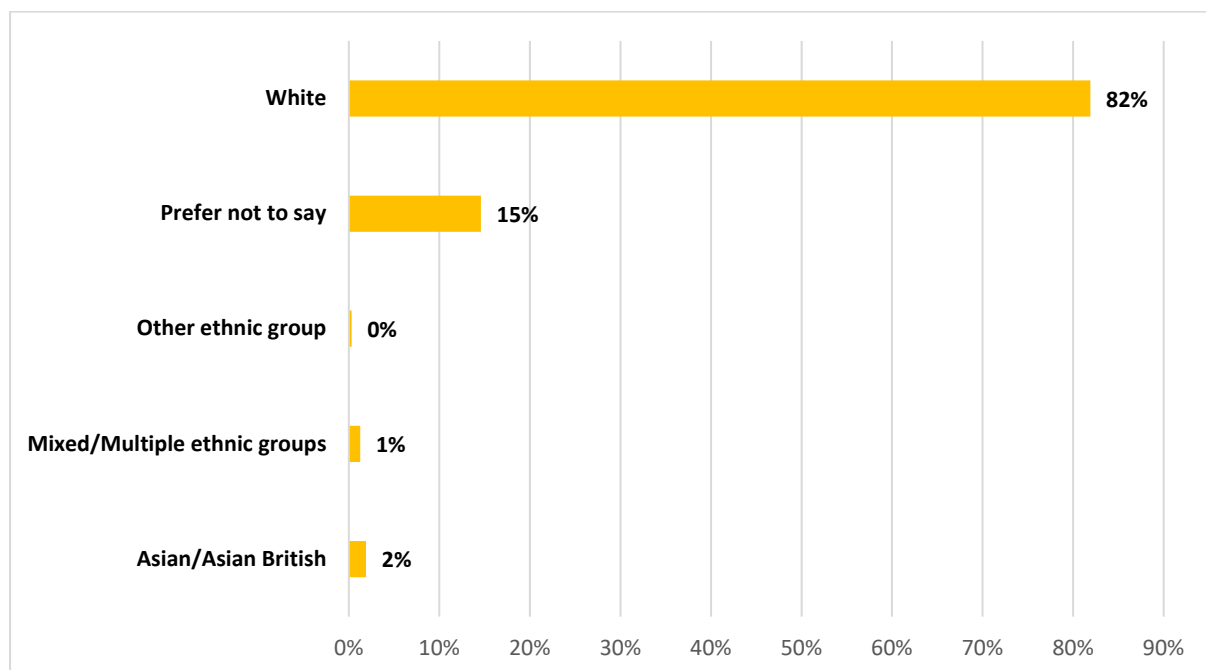
## Gender

2.6 Respondents were asked how they would describe their gender. Of the 316 responses for this question, 239 (76%) respondents identified as male, 49 (16%) female and 2 (1%) as non-binary. Twenty-six (8%) respondents preferred not to say and four (1%) chose not to answer. The proportion of males is slightly higher than the demographics of the Register. According to the binary gender information we collect from people when they join the Register, 71% of Registered architects identify as male. At 15%, the proportion of PII consultation respondents who identify as female is lower compared to the makeup of the Register, 29% of which is female.

## Ethnicity

2.7 Respondents were asked which ethnic group they belong to. From the 315 answers received, the majority (82%) stated they were White, (see Figure 2.2). Equality and Diversity survey data<sup>6</sup> helps us to understand the makeup of the Register. In relation to this survey, this figure is the same as the Register, which indicates that 82% of architects are White. Those identifying as Asian/Asian British, Mixed/Multiple ethnic groups or Other ethnic groups are lower than on the Register. A higher percentage of respondents preferred not to say compared to the number participating in the Equality and Diversity survey.

**Figure 2.2: Survey respondents by ethnicity (% of respondents)**

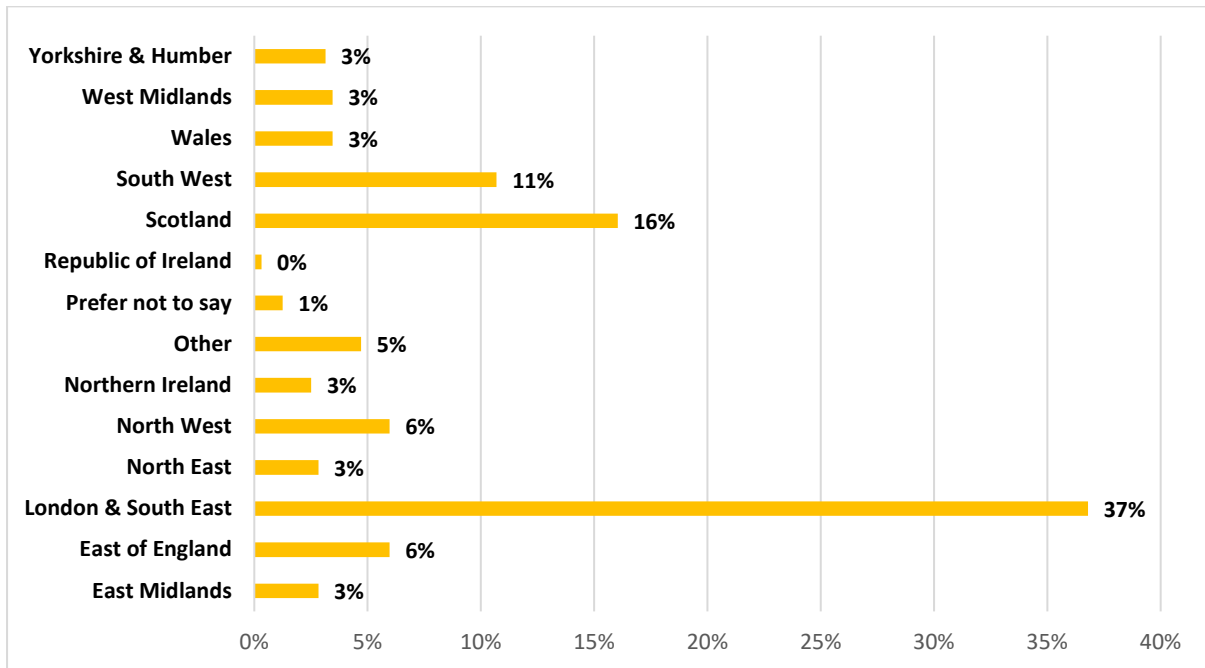


## Geographic spread of respondents

2.8 Respondents were asked to identify the UK country or region which most closely described their place of residence. 318 completed this question. There was at least one respondent from each area (see Figure 2.3). The largest proportion of respondents, 117 (37%), were based in London and the South East, more than double the next region with the most respondents (see Figure 2.3). The second largest distribution was Scotland, 51 (16%), followed by the South West, 34 (11%).

<sup>6</sup> Equality and Diversity Survey august 2022: [Equality & Diversity Data - Architects Registration Board \(arb.org.uk\)](https://www.arb.org.uk/equality-diversity)

**Figure 2.3: Respondents by geographic region (% of responses)**

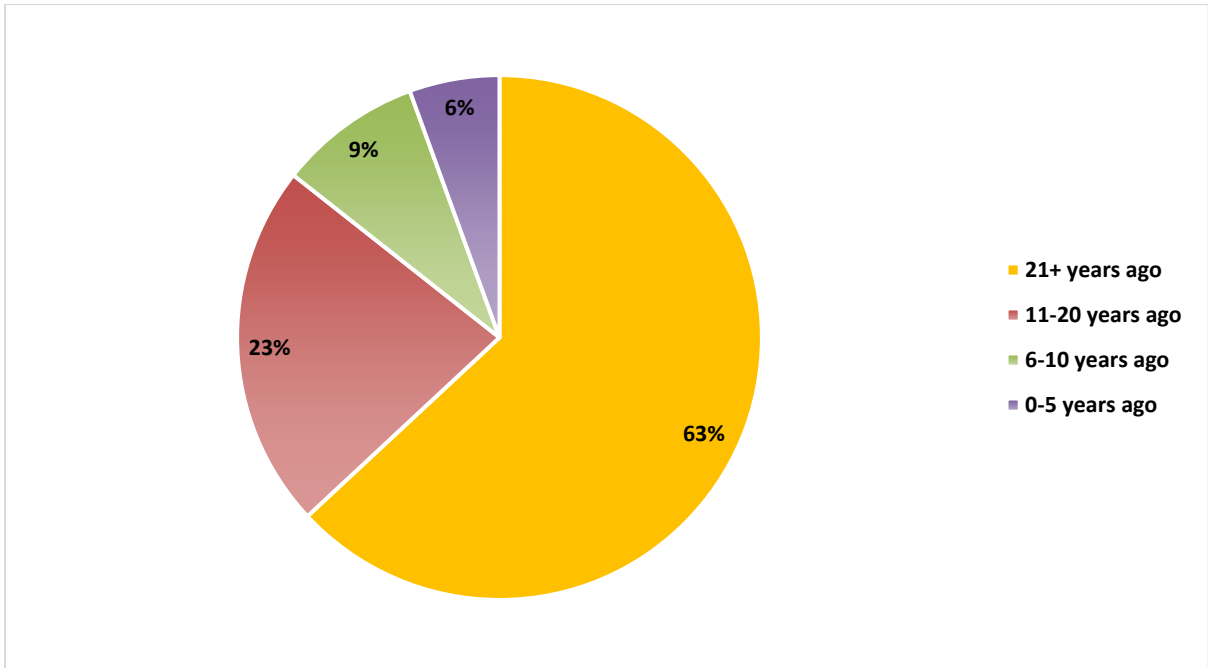


## Architects

2.9 306 responded to the question of when they qualified. Of the 293 respondents who identified as a registered architect, the majority, 193 (63%) qualified 21 or more years ago (see Figure 2.4). Just under a quarter (23%) of respondents qualified between 11 and 20 years ago. Twenty-seven (9%) qualified between six and 10 years ago, while 17 (6%) respondents qualified within the last five years.

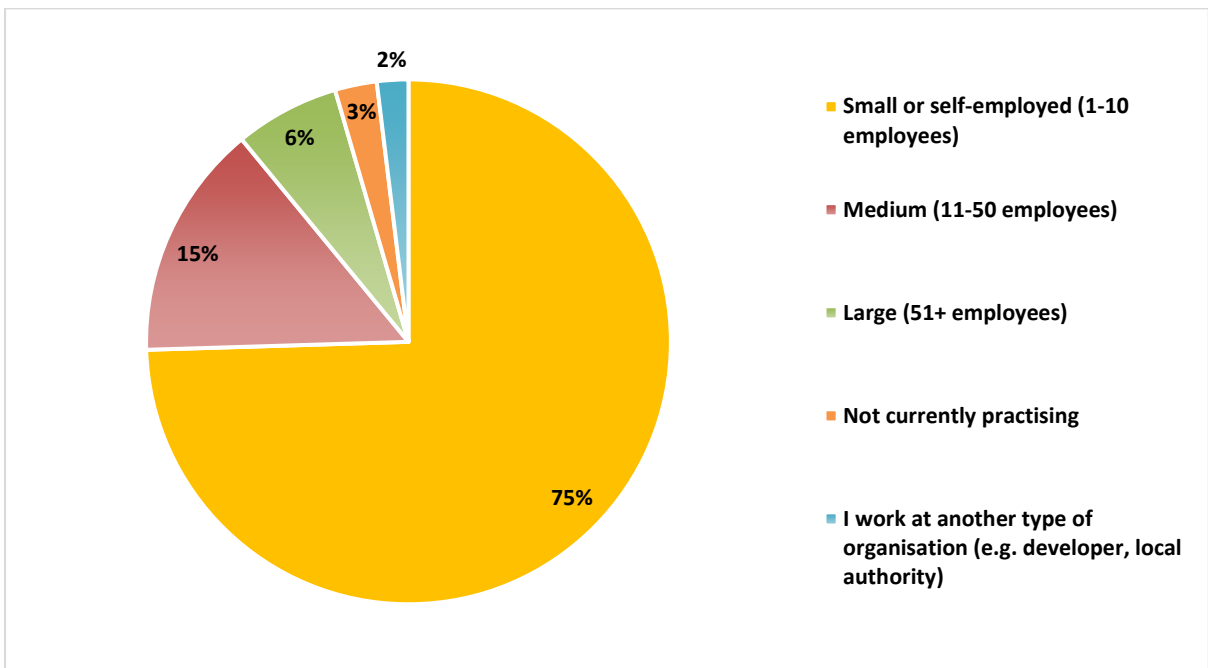
**Figure 2.4: Time since qualification of architect respondents**





2.10 Respondents were asked what the size of their practice was, which 310 answered. Three quarters of those who responded (231, equating to 75%) worked in small or self-employed practices with between one and 10 employees (see Figure 2.5). Forty-five architects (15%) worked in medium sized organisations with 11 to 50 employees. Twenty (6%) architects who responded worked in large practices with 51 or more employees. Eight respondents (3%) are not currently working as an architect and another six stated that they work for another type of organisation, such as developer or local authority.

**Figure 2.5: Type/size of practice of architect respondents**



## **Conclusion**

It is appropriate that the majority of respondents were architects, as they are the stakeholder group directly impacted by the proposed changes to the PII guidance. Whilst analysis of the respondents shows that there are some areas of underrepresentation compared to the Register (for example, 15% of survey respondents were female compared to 29% of the Register), all architects were given the opportunity to respond to the consultation. The feedback shared has enabled us to draw some broad conclusions and develop detailed analysis which will feed into the final changes to the PII guidance.

The views and comments received go beyond the profession, with respondents reflecting those who work alongside architects, architecture students, others from across the built environment sector as well as the insurance sector.

# Chapter Three: Quantitative results

## Support for the changes to the PII guidance

- 3.1 Question 10 asked respondents to state if they believed the changes to the guidance would:
- a) improve architects' access to professional indemnity insurance and
  - b) if the reduction in cover caused by the changes in the guidance would still offer adequate protection to clients or consumers wishing to make a claim.
- 3.2 Respondents could answer *Yes*, *No*, *Unsure* or choose not to answer the question. There were 317 responses to this question.
- 3.3 For each question part, over half of respondents were unsure whether the changes would improve architects' access to professional indemnity insurance (51%) or whether it would provide adequate protection (55%). Around a quarter of respondents thought the changes would improve access (26%) and provide adequate protection (25%). A slightly lower proportion thought the opposite outcome, with 23% responding that it won't improve access and 20% that it won't provide adequate protection to clients or consumers wishing to make a claim. (See Figures 3.1 and 3.2).
- 3.4 The Royal Incorporation of Architects in Scotland (RIAS) stated that they were unsure if this would improve accesses but did say that the changes to the guidance were useful. The Royal Institute of British Architects (RIBA) did not answer but offered support for the changes.

"While the proposed change to ARB guidance to allow aggregate basis and limited to direct loss cover is a helpful shift in response to these challenges, access to PII is only partly resolved by this move."

**The Royal Incorporation of Architects in Scotland (RIAS)**

"The changes proposed are sensible and proportionate – and are likely to reflect what is available to architects in the medium term."

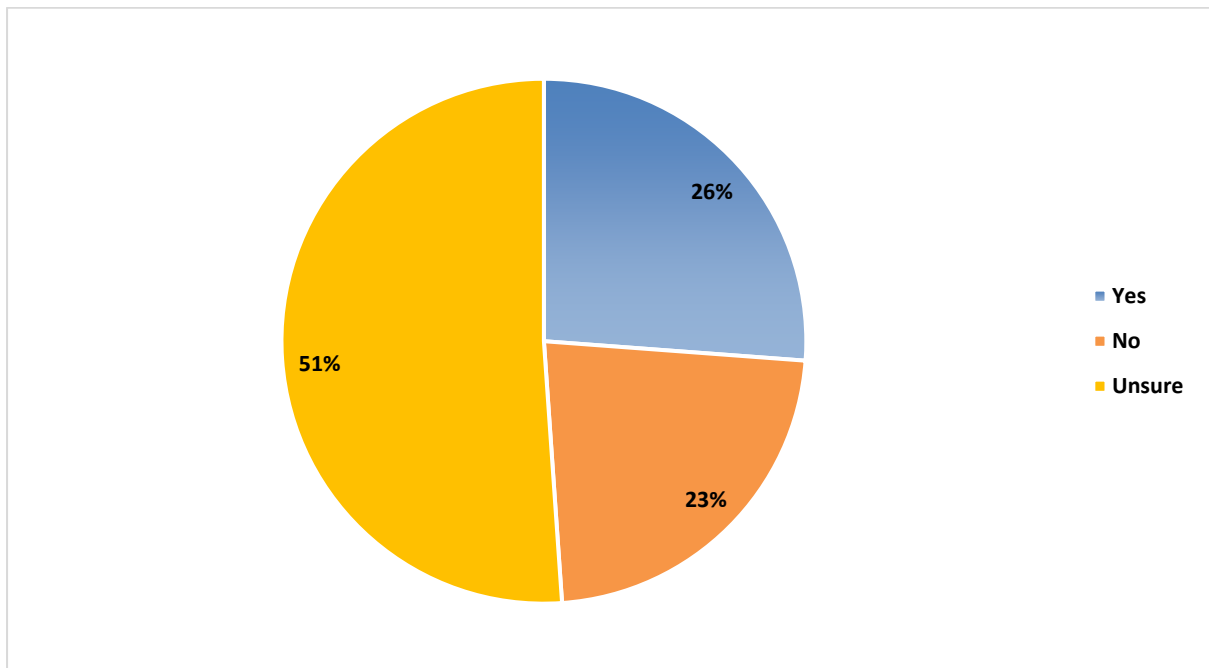
**Royal Institute of British Architects (RIBA)**

- 3.5 The International Underwriting Association (IUA) a membership organisation comprised of more than 50 insurers providing professional indemnity insurance (PII) for UK and international risks across a wide range of professions who collectively provide the majority of PII cover currently available for architects. The organisation noted that the proposed changes were in alignment with their Fire Safety and Cladding principles.

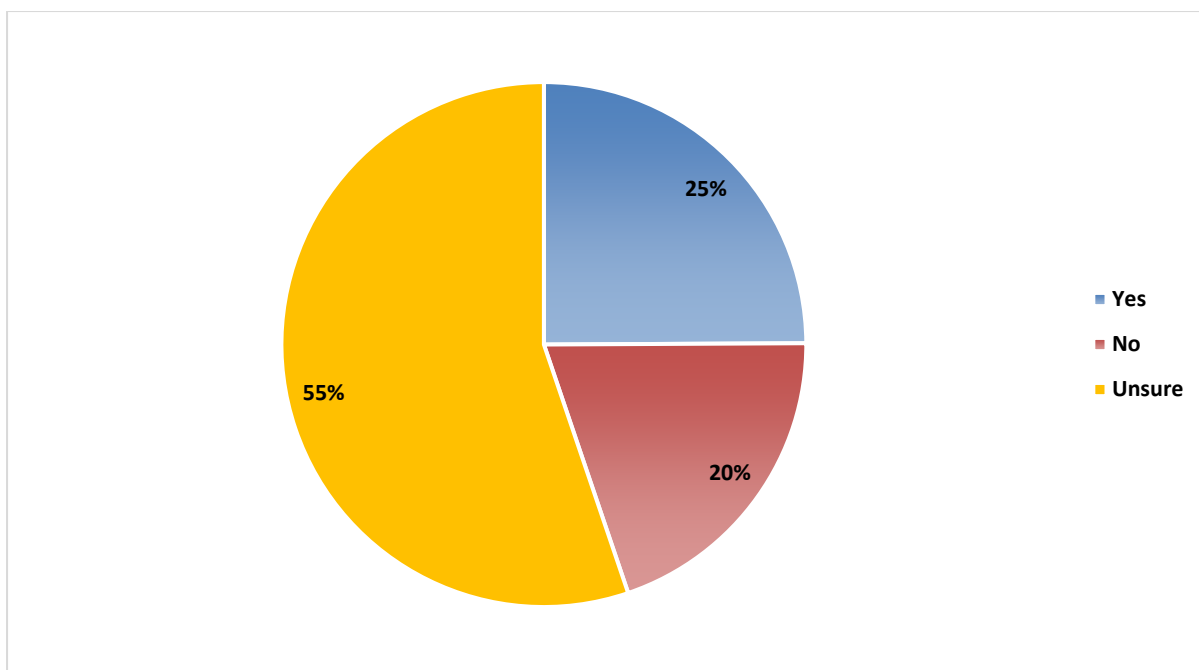
*“We recognise that the guidance on FS&C claims broadly follows the core principles and drafting language of one of IUA’s model Fire Safety and Cladding clauses (IUA 04-023) and would consequently support the move to aggregated cover and ‘direct’ losses arising from negligence.”*

**The International Underwriting Association (IUA)**

**Figure 3.1: Agreement that PII guidance changes will improve access to PII**



**Figure 3.2: Agreement that the changes will still offer protection to clients and consumers**



### Conclusion

While the majority of the respondents did not feel they could determine whether the proposed changes to the PII guidance would be beneficial or not, the three professional bodies along with a quarter of respondents indicated the proposed changes would bring the guidance up to date and in line with the current market or will improve access and still adequately protect clients and consumers. Therefore to ensure the guidance is in alignment with the current insurance market the proposed changes will be incorporated into the guidance.

### Minimum cover needed for projects

- 3.6 Question 11 asked participants to state if they felt the minimum level of cover below which no architect should accept remains at £250,000 for each and every claim was still appropriate to cover the lowest risk architectural practices.
- 3.7 Respondents had the choice of the following responses; Too high, Too low, Shouldn't be a level at all or respondents could choose not to answer the question.
- 3.8 The survey answers did not offer the option to state that the minimum level remained appropriate. Respondents who noted in the free-text box, provided with this question, that they felt that the level was appropriate have been calculated and included in the statistical analysis as stating that the level was appropriate. One respondent stated in the free-text box they did not know, and this was also included in the statistical analysis. In total, 306 consultees provided a response to this question.
- 3.9 Respondents were divided across all response options. The most common response was 'Too low' with 100 (33%) of respondents. Close to a quarter felt the minimum amount of £250,000 was still appropriate, 74 (24%). While a similar number of respondents felt that there should not be a level at all, 73 (24%). Less than a fifth of respondents, 58 (19%) felt the current minimum was too high. One respondent did not know. (See Figure 3.3).

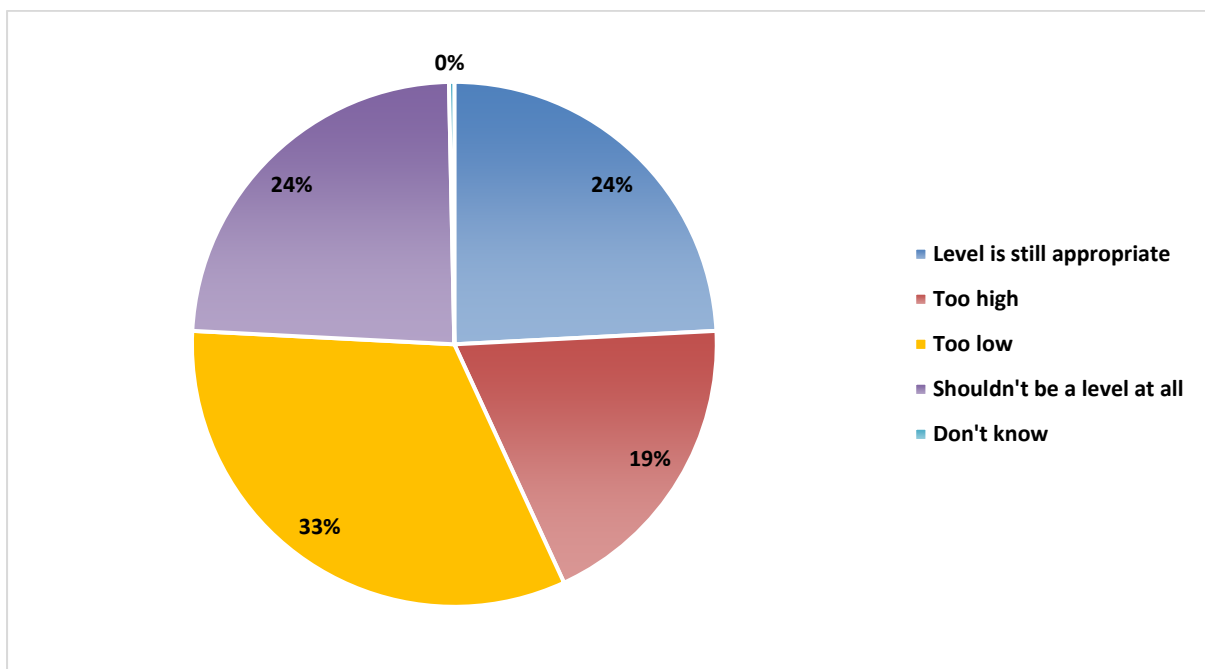
“The minimum cover should be dictated by the size of project undertaken by the practice. This should be obvious!”

**Thomas Stebbing, Architect, East of England**

“We think this is an acceptable level for cover and all architects should be able to maintain cover at this level”

**Mark Deverill, Architect, North West**

**Figure 3.3: Support for the minimum level of cover to remain £250,000**



3.10 Both RIAS and RIBA support retaining a minimum cover of £250,000 with RIAS recommending that the scale and nature of the work along with a risk assessment for projects' cover to be determined. This aligns with IUA's view on minimum cover. which stated

*“£250,000 offers a useful reference point, though the expertise of the firm, their risk management processes, complexity of the work being undertaken and value of the contract remains the key drivers for specific projects.”*

**The International Underwriting Association (IUA)**

## Conclusion

Responses were fairly even with no strong majority for any one answer and a high number of respondents who said 'don't know'. While there is not one solution that will suit all stakeholders, setting a minimum as guidance is seen as useful. Therefore, the minimum £250,000 will remain as the starting point but guidance will be included to ensure the scale and nature of the project is considered before a final amount is determined for individual projects.

### Minimum run-off cover

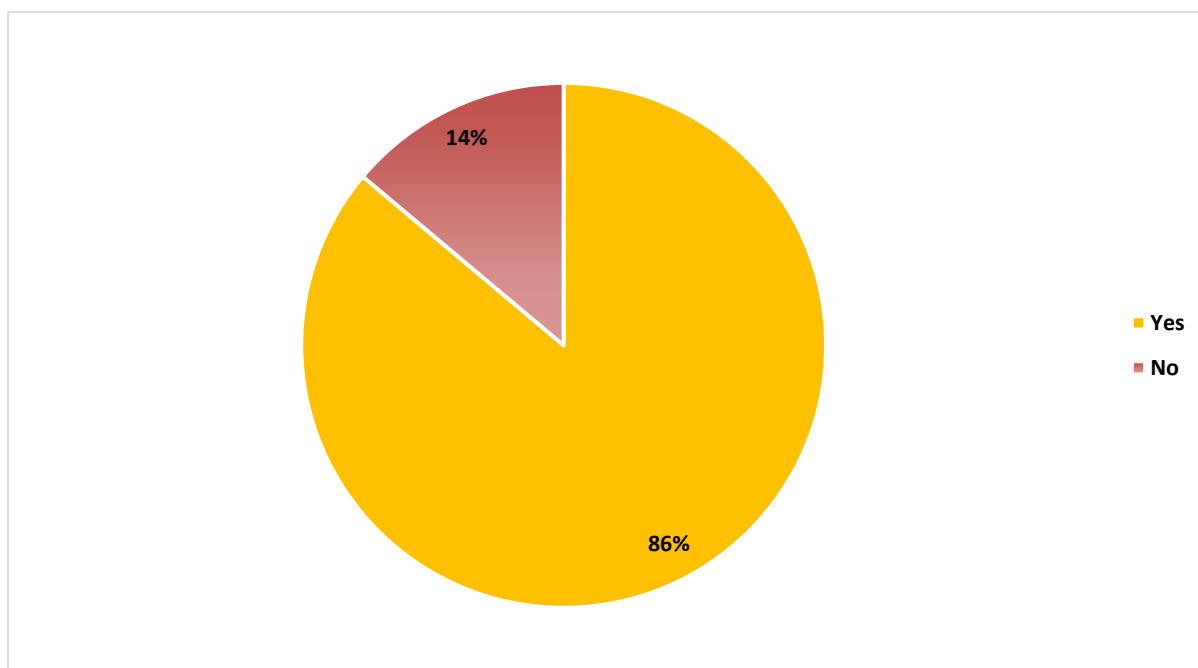
- 3.11 Question 12 asked respondents whether they agreed or not with the minimum amount of run-off cover should remain at six years. Respondents could answer *Yes*, *No* or choose not to answer the question.
- 3.12 With 318 responses, a large majority, 273 (86%) responded that they felt the minimum cover should remain at six years. 44 respondents, (14%) stated that they disagreed with the length of six years. (See Figure 3.4).

"The run off cover should be the same for all involved in the construction process. Six years is required in any contracted appointment"

**Architect, South West**

- 3.13 Of the 44 who disagreed with six years as the length of run-off cover, 25 did not suggest an alternative length. Fourteen suggested that the length should be between two and five years. The other five suggested the length should be increased to 12 years.
- 3.14 RIAS, RIBA and IUS all agreed that the run-off period should remain at six years.

**Figure 3.4: Support to maintain six-years run of cover**



## Conclusion

There is a strong agreement amongst the respondents that the run-off cover length should remain at six years and the guidance will retain this length of time for insurance run-off cover.

### Requirement that architects do not carry out any work for which they are uninsured

- 3.15 Question 13 asked respondents regarding the changes to the availability of insurance, what impact does ARB's requirement that architects do not carry out any work for which they are uninsured have on their practice?
- 3.16 Respondents were given three answers to choose from, *It will have little impact on my practice, It will have a positive impact on my practice, I am concerned that it will negatively impact my practice*, or they could choose not to answer the question. There were 312 answers given.
- 3.17 Half of respondents, 160 (51%) felt that the changes to the availability of insurance meant ARB's requirement to have insurance for all work undertaken would have little impact on their practice. However, a large minority, 134 (43%), felt the opposite and said the requirement would negatively impact on their practice. A small number of respondents, 18 (6%) felt that the changes in availability of insurance meant the requirement to be insured would have a positive impact on their practice. (See Figure 3.5)

"I anticipate rising costs of insurance, our premium was £900 3 years ago and now is £2400 for the same cover and cladding and basement restrictions, at some point costs of insurance will make businesses unviable, we have a minimal exposure to complicated risks but the premium jumped because of the lack of insurers in the market for architects."

**Architect, London & South East**

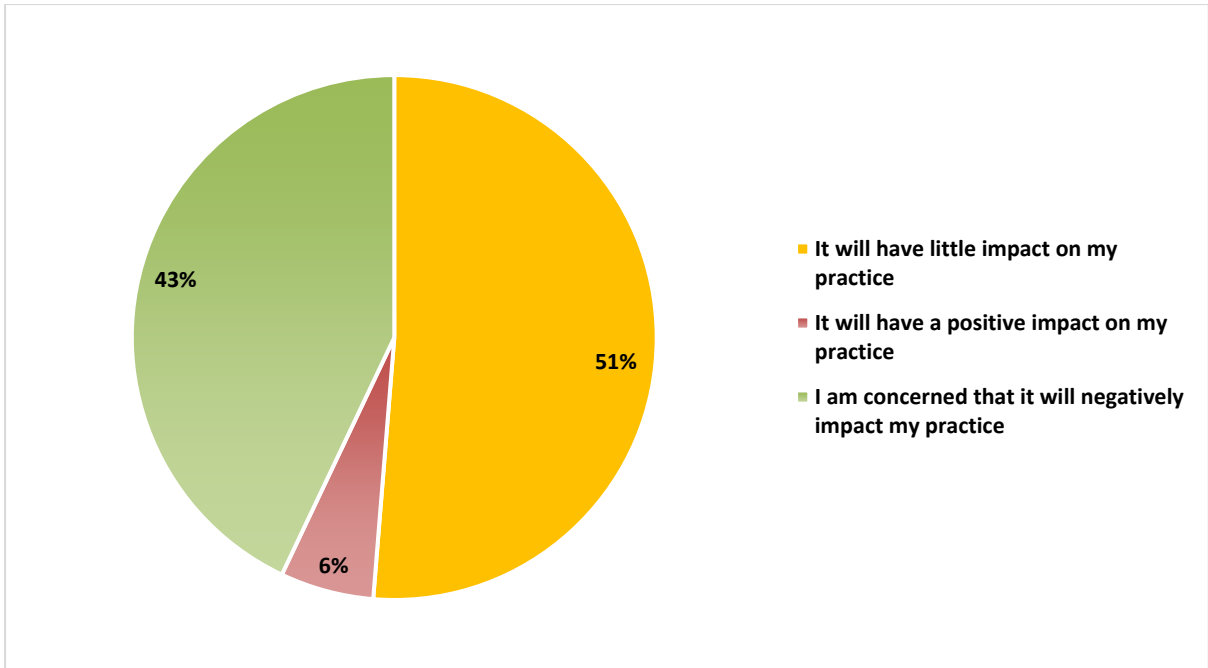
"There is more inclination for design only work, up to planning, with no responsibility for detailing, specification and onsite inspection. There needs to be insurance guidelines for projects taken up to planning only."

**Architect, London & South East**

- 3.18 RIAS noted that its policy is to remind its members that they should only undertake work that they are insured for. However, the body is concerned that the changes will mean this requirement will impact negatively on their members. RIBA agreed that architects should not undertake work without insurance.

**Figure 3.5: Impact on practice to be insured for all work undertaken**





### Conclusion

A small majority believe that this requirement will not impact either positively or negatively on their practice. There is a large minority that consider the changes to the insurance market mean the requirement to hold PII for all work undertaken will negatively impact their practice. However, as PII is an important protection which provides reassurance to the clients and the end users of the buildings, we shall keep in place the requirement that architects must be insured for all work they undertake.

# Chapter Four: Qualitative analysis

- 4.1 This chapter analyses recurring topics that were raised by more than 10 per cent of the consultees.
- 4.2 Comments raised by less than 10 per cent of the survey participants, have been reviewed but have not been included in our analysis. These comments have been listed under 'General comment raised' below. Our qualitative analysis process is summarised in Chapter One and our coding framework is published in Annex C.

## Concerns with the current insurance market

- 4.3 Respondents raised recurring concerns about the current situation of the insurance market.
- 4.4 Seventy-three respondents (23%) raised a concern that the current situation was limiting their ability to take on work. Sixty-nine of the 224 architects who participated in this survey identified this concern. Fifty-three were working in small practices or were self-employed, 12 worked in medium sized organisations and six worked in large practices.
- 4.5 Thirty-nine (12%) respondents felt the exclusions included in insurance policies were not manageable. Thirty-six of these respondents were architects, 26 worked in small practices or are self-employed, 11 in medium sized organisations and two were from large practices.
- 4.6 Conversely, 51 (16%), noted that they felt the exclusions were manageable. Forty-seven of these were architects, 38 of whom worked in small practices or were self-employed. Seven worked in a medium practice and two worked in large organisations.
- 4.7 The final recurring comment regarding the insurance market related to the cost of insurance. Thirty-seven (12%) respondents highlighted their concern that insurance policies had become or were becoming unaffordable. Thirty-six who raised this concern were architects, 27 worked in small practices or were self-employed, six worked in medium sized practices and three were from large organisations.

## Alternative action

- 4.8 There were also recurring topics related to alternative action to resolve the issues in the insurance market. One recurring idea, raised by 38 respondents (12%) felt that ARB should take more action to resolve the current insurance issues.
- 4.9 Similarly, for the last topic on alternative action, 70 (22%) respondents suggested alternative action to the proposed changes. The most requested suggestion was for more detailed or additional guidance to be provided by ARB. This was raised 19 times within the responses.
- 4.10 Other suggestions given included:

- Calls to lobby the UK government and/or the insurance sector were included by 12 respondents. There were 10 requests to have more insurance products, or to have insurance policies specifically tailored to the individual purchaser.
- Requests for wording standardisation. Five respondents suggested that insurers should standardise their policy wordings to encourage consistency and fair access. Three respondents suggested the introduction of project insurance as a potential solution to the problems the PII market faces.
- ARB was also warned of a potential consequence of architects withdrawing from the Register as a result of PII requirements. Some respondents thought this could lead to individuals practising architecture outside of the regulatory framework.

## Conclusion

Respondents used the survey to raise varied views on the difficulties they are experiencing with the current insurance market and their ideas for how the insurance sector and ARB can help to resolve these.

All views have been noted, but we cannot take forward all suggestions, as a statutory regulator, our powers are confirmed to those with the legislation

There is a clear call for aspects of the guidance to be clarified further. We shall prepare an additional advisory document relating to additional elements such as work undertaken for friends and family, as well as how architects can best acquire adequate insurance.

We will also continue to work with professional membership bodies and insurers to identify ways to help architects access the insurance they need.

## General comments raised

- 4.11 The other comments raised but not included in the analysis related to the following ideas:
- Insurance companies and the market neither know nor understand the work architects do. This was raised nine times within the responses.
  - A new system was needed to replace the PII system. This was mentioned eight times in the responses.
  - The proposed changes to the guidance would offer insufficient protection for consumers. This was raised eight times in the survey responses.
  - That the requirement to hold insurance, given the current state of the market would have a disproportionate impact on small practices or self-employed. This was communicated eight times in responses.
  - The price of the PII premiums would lead to non-registered architects/other professions to undercutting registered architects and this would mean clients engaging more with non-regulated professions within the built sector. This idea was noted six times within the responses.
  - The proposed changes to the survey would not reduce the risk of being sued. This was mentioned five times within the responses.
  - The proposed guidance cannot be achieved. This idea was noted five times in the responses.
  - There were four positive comments about the guidance.
  - There were three calls for the government to intervene on the issues with gaining PII.

- There were three comments that the requirement to hold insurance, given the current state of the market would have a disproportionate impact on architects who have been on the register the longest.
- There were two concerns raised that the requirement to hold insurance, given the current state of the market would have a disproportionate impact on newly qualified architects.
- There were two negative comments about ARB.

# Chapter Five: Next Steps

- 5.1 The survey has provided useful feedback on the proposed changes to the guidance on professional indemnity insurance and ARB is grateful for respondents for sharing their views.
- 5.2 The results show that there is no definitive consensus on whether the guidance will impact on the current issues affecting architects' access to PII or if the changes will be adequate for their clients.
- 5.3 However, there is support for the proposed new guidance, albeit with some requests for further clarification in certain areas of the document.
- 5.4 It is however clear that any guidance ARB issues will only be able to have a limited effect on the difficulties architects face in accessing affordable and appropriate insurance. Alongside the issuing of updated guidance, it is clear that more work needs to be done across the sector to identify solutions to the problems in the PII market which are currently causing the profession.
- 5.5 This will include monitoring the market, considering the ongoing data and insights from architects, the built environment and the insurance sector as well as working with the professional membership bodies and the insurance profession to help facilitate access to PII.

# Annex A: List of respondents

Of the 320 unique responses, 55 (17%) gave their permission for their responses to be published in full, with a further 183 (57%) permitting their responses to be published anonymously<sup>7</sup>.

There were 50 architects who agreed for their responses to be published in full, along with one retired architect, one professional within the built sector, two who worked in another role and one who did not identify their role.

Of the 183 who permitted their responses to be published anonymously, 169 were architects, four retired architects, one was an architecture student – Part 3 candidate. In addition there were six professionals within the built sector and three who held other roles.

82 participants asked that their responses were not published. Of these, 74 were architects, four were retired architects, two were professionals within the built sector, one who held a different role and one who did not state their current role.

There were 173 responses made on behalf of an organisation, with 37 consenting to their responses being published in full.

The names of all these organisations who gave their permission are below.

- @rchitecture
- Allies and Morrison LLP
- Anthony Watson Chartered Architect
- Architecture and Partners LLP
- ARK architects Ltd
- ASP Architects London Ltd
- AUSB
- bpArchitecture Ltd
- brp architects
- CFD Architects
- Chris Murfin Architects
- Cuozzo Fleming Architects Ltd
- David Ford Architects Ltd
- DWR Architecture
- E2 Architecture + Interiors
- Edward Williams Architects Ltd.
- Gagarin Studio
- Giles Arthur Architects
- Ground Designs
- Heeleys Architects
- HM Architecture (NW) LLP
- International Underwriting Association
- Jill Andrews Architect
- John Stebbing Architects Ltd
- K TEMPLE RIBA
- KR.eativ: Architects Ltd
- LUCA PROJECTS LTD
- Nimtim architects
- Originate: Architects
- PiM.studio Architects
- Richard Morton Architects Ltd
- Royal Institute of British Architects
- StudioNorth
- The Royal Incorporation of Architects in Scotland (RIAS)
- Thomas Studio Ltd
- Typology Architects Ltd
- West Waddy Archadia

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<sup>7</sup> Published responses will be accessible here: {INSERT LINK}

# Annex B: Survey data

<b>Table B1: Survey respondents by stakeholder category</b>		
<b>Option</b>	<b>Total</b>	<b>Percentage</b>
Registered Architect	293	91.56%
Retired	9	2.81%
Architecture student -Part 3 candidate	1	0.31%
Professional in Built Sector	9	2.81%
Not Answered	2	0.63%

<b>Table B2: Survey respondents by gender</b>		
<b>Option</b>	<b>Total</b>	<b>Percentage</b>
Male	239	74.69%
Female	49	15.31%
Non-binary	2	0.63%
Prefer not to say	26	8.13%
Not Answered	4	1.25%

<b>Table B3: Survey respondents by ethnicity</b>		
<b>Option</b>	<b>Total</b>	<b>Percentage</b>
Asian/Asian British	6	1.87%
Mixed/Multiple ethnic groups	4	1.25%
Not answered	5	1.56%
Other ethnic group	1	0.31%
Prefer not to say	46	14.33%
White	258	80.37%

<b>Table B4: geographic spread of responses</b>		
<b>Option</b>	<b>Total</b>	<b>Percentage</b>
East Midlands	9	2.80%
East of England	19	5.92%
London and South East	117	36.45%
North East	9	2.80%
North West	19	5.92%
Northern Ireland	8	2.49%
Other	15	4.67%
Prefer not to day	4	1.25%
Republic of Ireland	1	0.31%
Scotland	51	15.89%
South West	34	10.59%
Wales	11	3.42%
West Midlands	11	3.42%

Yorkshire & Humber	10	3.12%
Not Answered	2	0.62%

<b>Table B5: Architects – When qualified</b>		
<b>Option</b>	<b>Total</b>	<b>Percentage</b>
21+ years ago	178	60.75%
11-20 years ago	62	21.16%
6-10 years ago	27	9.22%
0-5 years ago	16	5.46%
Not answered	1	0.34%

<b>Table B6: architects – Size of Practice</b>		
<b>Option</b>	<b>Total</b>	<b>Percentage</b>
Small or self-employed (1-10 employees)	213	72.70%
Medium (11-50 employees)	42	14.33%
Large (51+ employees)	18	6.14%
Not currently practising	4	1.37%
I work at another type of organisation (e.g. developer, local authority)	4	1.37%
Not Answered	1	0.34%

<b>Table B7: We have changed the guidance to allow cover in respect of fire-safety and cladding claims to be held on an aggregate basis and limited to direct loss. Will this improve architects' access to professional indemnity insurance?</b>				
<b>Option</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>	<b>Not Answered</b>
Total	<b>83</b> (25.94%)	<b>72</b> (22.50%)	<b>162</b> (50.63%)	<b>3</b> (0.94%)
Registered Architect	<b>44</b> (13.75%)	<b>33</b> (10.31%)	<b>149</b> (46.56%)	<b>1</b> (0.31%)
Retired	<b>1</b> (0.31%)	<b>1</b> (0.31%)	<b>7</b> (2.19%)	<b>0</b> (0.00%)
Architecture student -Part 3 candidate	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>1</b> (0.31%)	<b>0</b> (0.00%)
Professional in Built Sector	<b>3</b> (0.94%)	<b>4</b> (1.25%)	<b>2</b> (0.63%)	<b>0</b> (0.00%)
Other	<b>0</b> (0.00%)	<b>3</b> (0.94%)	<b>3</b> (0.94%)	<b>0</b> (0.00%)
Not Answered	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>2</b> (0.63%)

<b>Table B8: We have changed the guidance to allow cover in respect of fire-safety and cladding claims to be held on an aggregate basis and limited to direct loss. Will this reduction in cover still offer adequate protection to clients or consumers wishing to make a claim?</b>				
<b>Option</b>	<b>Yes</b>	<b>No</b>	<b>Unsure</b>	<b>Not Answered</b>
Total	<b>79</b> (24.69%)	<b>63</b> (19.69%)	<b>175</b> (54.69%)	<b>3</b> (0.94%)



Registered Architect	<b>74</b> (23.13%)	<b>59</b> (18.44%)	<b>159</b> (49.69%)	<b>1</b> (0.31%)
Retired	<b>2</b> (0.63%)	<b>0</b> (0.00%)	<b>7</b> (2.19%)	<b>0</b> (0.00%)
Architecture student -Part 3 candidate	<b>0</b> (0.00%)	<b>1</b> (0.31%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Professional in Built Sector	<b>1</b> (0.31%)	<b>2</b> (0.63%)	<b>6</b> (1.88%)	<b>0</b> (0.00%)
Other	<b>2</b> (0.63%)	<b>1</b> (0.31%)	<b>3</b> (0.94%)	<b>0</b> (0.00%)
Not Answered	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>2</b> (0.63%)

**Table B9: The minimum level of cover below which no architect should accept remains at £250,000 for each and every claim. Is that level of cover still appropriate to cover the lowest risk architectural practices?**

Option	Level is still appropriate	Too high	Too low	Shouldn't be a level at all	Don't know	Not answered
Total	<b>74</b> (23.13%)	<b>58</b> (18.13%)	<b>100</b> (31.25%)	<b>73</b> (22.81%)	<b>1</b> (0.31%)	<b>14</b> (4.38%)
Registered Architect	<b>67</b> (20.94%)	<b>56</b> (17.50%)	<b>91</b> (28.44%)	<b>65</b> (20.31%)	<b>1</b> (0.31%)	<b>13</b> (4.06%)
Retired	<b>2</b> (0.63%)	<b>0</b> (0.00%)	<b>3</b> (0.94%)	<b>4</b> (1.25%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Architecture student -Part 3 candidate	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>1</b> (0.31%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Professional in Built Sector	<b>1</b> (0.31%)	<b>1</b> (0.31%)	<b>4</b> (1.25%)	<b>3</b> (0.94%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Other	<b>3</b> (0.94%)	<b>1</b> (0.31%)	<b>2</b> (0.63%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Not Answered	<b>1</b> (0.31%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>1</b> (0.31%)

**Table B10: The Building Safety Act extends the period of liability for some claims to 30 years. We believe that requiring architects to maintain run-off cover for a period longer than six years would be disproportionate to the risks involved. Do you agree that the minimum amount of run-off cover should remain at six years?**

Option	Yes	No	Not Answered
Total	<b>273</b> (85.31%)	<b>44</b> (13.75%)	<b>3</b> (0.94%)
Registered Architect	<b>251</b> (78.44%)	<b>40</b> (12.50%)	<b>2</b> (0.63%)
Retired	<b>9</b> (2.81%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Architecture student -Part 3 candidate	<b>1</b> (0.31%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)

Professional in Built Sector	<b>5</b> (1.56%)	<b>4</b> (1.25%)	<b>0</b> (0.00%)
Other	<b>6</b> (1.88%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Not Answered	<b>1</b> (0.31%)	<b>0</b> (0.00%)	<b>1</b> (0.31%)

**Table B11: ARB’s guidance states that it is unacceptable for architects to carry out any work for which they are uninsured. Given the changes to the availability of insurance, what impact does ARB’s requirement have on your practice?**

<b>Option</b>	<b>It will have little impact on my practice</b>	<b>It will have a positive impact on my practice</b>	<b>I am concerned that it will negatively impact my practice</b>	<b>Not Answered</b>
Total	<b>160</b> (50%)	<b>18</b> (5.63%)	<b>134</b> (41.88%)	<b>8</b> (2.50%)
Registered Architect	<b>144</b> (45.00%)	<b>17</b> (5.31%)	<b>130</b> (40.63%)	<b>2</b> (0.63%)
Retired	<b>5</b> (1.56)	<b>0</b> (0.00%)	<b>1</b> (0.31%)	<b>3</b> (0.94%)
Architecture student -Part 3 candidate	<b>0</b> (0.00%)	<b>1</b> (0.31%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)
Professional in Built Sector	<b>8</b> (2.50%)	<b>0</b> (0.00%)	<b>2</b> (0.63%)	<b>1</b> (0.31%)
Other	<b>3</b> (0.94%)	<b>0</b> (0.00%)	<b>2</b> (0.63%)	<b>1</b> (0.31%)
Not Answered	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>0</b> (0.00%)	<b>2</b> (0.63%)

# Annex C: Qualitative analysis coding framework

Theme or topic raised	Context and further detail about the theme
<b>Manageable</b>	Exclusions are manageable <ul style="list-style-type: none"> <li>- <i>Comments that exclusions or proposed exclusions aren't/won't impact on doing the job</i></li> </ul>
<b>Not manageable</b>	Exclusions are not manageable <ul style="list-style-type: none"> <li>- <i>Comments that the exclusions or proposed exclusions are/will prevent/hinder work being accepted or being completed</i></li> </ul>
<b>Impact SP</b>	ARB's requirement that architects have insurance, given the current changes to availability of insurance will have a disproportionate impact on small practices <ul style="list-style-type: none"> <li>- <i>Comments that the PII issues will or have impacted on small practices/sole traders</i></li> </ul>
<b>Impact New</b>	ARB's requirement that architects have insurance, given the current changes to availability of insurance will have a disproportionate impact on newly qualified and/or older architects <ul style="list-style-type: none"> <li>- <i>Comments that the PII issues will or have impacted on those who have recently joined the Register.</i></li> </ul>
<b>Impact Old</b>	ARB's requirement that architects have insurance, given the current changes to availability of insurance will have a disproportionate impact on older architects <ul style="list-style-type: none"> <li>- <i>Comments that the PII issues will or have impacted on those who have been on the Register a long time.</i></li> </ul>
<b>Limit work</b>	Limiting work that architects can undertake <ul style="list-style-type: none"> <li>- <i>Comments that the architects are limiting what work they take on or are restricted on what they can take on due to their PII policy restrictions</i></li> </ul>
<b>No risk impact</b>	Guidance has no impact on risk <ul style="list-style-type: none"> <li>- <i>Comments that the proposed guidelines for PII won't reduce or erase the risk of being sued</i></li> </ul>
<b>Insurer knowledge</b>	Insurers don't understand what architects do <ul style="list-style-type: none"> <li>- <i>Comments that insurance companies/market do not know or understand what architects do</i></li> </ul>
<b>Positive guidance</b>	Positive comments about the guidance
<b>Unachievable</b>	Guidance is unachievable <ul style="list-style-type: none"> <li>- <i>Comments stating ARB's proposed guidance cannot be achieved</i></li> </ul>
<b>Consumer</b>	Guidance offers insufficient protection for consumers
<b>Unaffordable</b>	Insurance is unaffordable or becoming unaffordable <ul style="list-style-type: none"> <li>- <i>Comments stating that the PII is too costly or is predicted to become too costly to be sustainable</i></li> </ul>
<b>Undercut</b>	Clients engaging non-architects for projects <ul style="list-style-type: none"> <li>- <i>Comments raising concern on other professions/non-registered architects undercutting architects who have been priced out by their PII premiums</i></li> </ul>

<b>Alt PII</b>	Alternative to PII is required - <i>Comments stating a new way/system is needed instead of PII</i>
<b>Gov</b>	Government should intervene - <i>Comments calling for government to act on PII</i>
<b>ARB act</b>	ARB should intervene or provide more support for architects - <i>Comments calling for ARB to take more action with insurance companies or to provide more support to architects</i>
<b>ARB +</b>	ARB positive - <i>Positive comments about ARB</i>
<b>ARB -</b>	ARB negative - <i>Negative comments about ARB</i>
<b>Other</b>	Other - <i>Themes raised not covered by the main tags</i>



For more information, please contact  
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## **Professional indemnity insurance guidance**

Financial protection against liability incurred in practice or business related to architecture needs to be in place in the interest of both you, your client, and any future users of buildings you have designed. That protection can usually be best found by way of a professional indemnity insurance policy.

This guidance sets out how you are expected to cover your professional liabilities through professional indemnity insurance under the [Architects Code of Conduct and Practice](#). A failure to adequately follow this guidance may be taken into account in any investigation into your conduct or competence under the Architects Act.

### **1. What is professional indemnity insurance?**

- 1.1 Professional indemnity insurance (PII) provides cover to an individual or company in respect of third-party claims arising from professional negligence or a civil liability arising from professional services that have been provided.
- 1.2 PII policies are written on a 'claims-made basis', which means that it is the policy in force at the time that a claim is notified that would come into effect. For example, a claim brought in 2022 for work carried out in 2018 would be settled under the 2022 policy.
- 1.3 PII policies are provided by various insurance underwriters and arranged by insurance brokers on architects' behalf. The coverage provided by insurance policies can vary in their scope depending on the insurer, but will normally written for a 12 month period and then renewed as appropriate.
- 1.4 A PII policy will cover legal defence costs arising from a claim against you or your business, and any damages awarded in relation to any alleged errors in your architectural service. Exactly what a policy will cover will always be subject to the policy terms and conditions, particularly in respect of
  - Level of indemnity (the maximum amount the policy will pay out)
  - The type of loss that will be covered
  - Excess levels (the 'first' amount that the insured must pay on a claim before the policy will react)
  - Exclusions (areas of architectural practice that will not be covered by the insurance)

## **2. Architects Code of Conduct and Practice**

- 2.1 Allegations of professional negligence often involve complex and detailed issues, and litigation may be expensive. Even where an architect has found not to be at fault, the costs in defending a claim can far exceed the fees the practice has earned on a project. An uninsured claim can leave clients and the public with no reasonable route of redress, and be ruinous for an architect's practice.
- 2.2 Because of that, under the Architects Code of Conduct and Practice, you are expected to have adequate and appropriate insurance cover for you, your practice and your employees. You should ensure that your insurance is adequate to meet a claim. You are expected to maintain a minimum level of cover, including run-off cover, in accordance with this guidance.
- 2.3 If you are an employee of a practice then you should, as far as a possible, ensure that insurance cover has been put in place by your employer. It is your responsibility to ensure your professional work is adequately covered.
- 2.4 Some architects may be reliant on others to provide cover/protection on their behalf. Examples of this are those acting as consultants, through agencies, or providing casual or gratuitous advice. You may not need to maintain your own insurance policy where other appropriate cover/protection is provided on your behalf, but again you should seek confirmation of that cover in writing.
- 2.5 Consideration needs to be given to the issues surrounding *pro bono* work. Work carried out for free is unlikely to be free of liability. It is not uncommon for claims to be made against architects even where no fees are being charged so suitable protection will be required, as for other categories of work.
- 2.6 You need to be aware that the terms and conditions of PII policies differ, and you should therefore make proper enquiries to satisfy yourself that the policy on offer matches all your requirements. Consideration should be given to the implications of the date the practice first commenced work and the start date of cover.
- 2.7 There is a strong public interest in architects maintaining proper professional indemnity insurance so that clients and building users have a route to redress in the event of a negligence claim. Because of that ARB, acting through our Professional Conduct Committee, will view very seriously any failure by an architect in this regard.

### **3. Limits of Indemnity**

- 3.1 You should maintain sufficient cover to meet any claims made against your professional practice. The level of indemnity required will vary widely, depending on the scale and nature of the architectural work you undertake.
- 3.2 While you should seek expert advice from an insurance broker, we would expect a *minimum* level of indemnity to be £250,000 and that insurance should be acquired on an each and every claim basis. The only exception for this may be in relation to fire-safety claims or cladding claims (see below).

### **4. Fire safety and cladding claims**

- 4.1 In recent years it has become increasingly difficult for architects to secure professional indemnity insurance in respect of fire safety<sup>1</sup> or cladding<sup>2</sup> claims.
- 4.2 It is therefore acceptable to hold professional indemnity insurance on an aggregate basis to cover these types of claims (and also for those relating to asbestos and pollution). Where cover is held on an aggregate basis, it is your responsibility that it is held at a sufficient level to fairly reflect the risk of your practice facing multiple claims. That cover may be limited to direct losses arising from a negligent act (that is, consequential losses may be excluded from cover). It is important to understand that having restricted cover in relation to these areas will not mean that your liability is reduced, so take particular care to manage these risks within your practice.
- 4.3 Such restrictions in your policy should only be accepted where there is no alternative after you have taken all reasonable steps to find comprehensive cover. If you take the decision that exclusions must be accepted for commercial reasons, you may need to demonstrate why paying for more comprehensive cover was not viable for your business. Upon each renewal you should take all reasonable steps to ascertain whether you are able to

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<sup>1</sup> Fire Safety Claims means any damage, loss, cost or expense or any other liability directly or indirectly arising from or in any way related to the fire safety or fire performance or combustibility of a building or structure or any part of such building or structure

<sup>2</sup> Cladding Claims means any damage, loss, cost or expense or any other liability directly or indirectly arising from or in any way related to the combustibility of any composite panels, cladding or façades of buildings or structures, and/or internal or external wall systems and any associated core/filler/insulation material and/or any fixing systems



remove any such limitations on your policy, and be able to evidence that you have taken those steps.

- 4.4 It is not acceptable to carry out architectural work which is subject to a complete exclusion from insurance cover.

## **5. Uninsured liabilities**

- 5.1 If there are new exclusions which apply to your historic liabilities, you should contact former clients to whom the change in policy coverage may affect their ability to bring a claim that is covered by insurance.
- 5.2 If insurance cover for existing appointments is no longer available, you should notify your client(s) without delay. You may need to seek professional advice on your contractual obligations before deciding on whether it is appropriate to remain appointed.
- 5.3 You should also write to us to explain the circumstances of your non-insurance. An architect who has acted in accordance with the Code of Conduct and Practice and PII Guidance published by ARB, but had elements of their insurance removed ~~through no fault of their own~~ because insurers no longer offer that cover, will not face regulatory action because of it.
- 5.4 It remains the case that all architects are expected to have adequate and appropriate insurance to cover their work, where it is available. You should not accept new commissions for work where you do not have appropriate insurance cover in place. An increase in premium is not a valid reason for not renewing insurance.

## **6. Run-Off Cover**

- 6.1 The nature of PII means that cover is provided on a claims-made basis, so in order for cover to be provided insurance must be held when a claim is made, rather than when an incident occurred.
- 6.2 If you are a principal or director of a practice you should take reasonable steps to ensure that you have in place adequate 'run-off' cover when you cease practice, whether it because of retirement or the closure of a business, to cover work previously undertaken. You should always maintain a minimum of six years' worth of run-off cover (five years' if you practice in Scotland) and continue to monitor any risk you have of a claim being made against you after

this time. This cover should be held at the same level as the last year prior to the cessation of practice.

- 6.3 Be particularly aware of any liabilities that will extend beyond the normal statutory time-limits. These will include contracts that are made under seal (deeds), for which the period of liability is 12 years, or claims that may be brought under the Defective Premises Act.

## **7. Insolvency**

- 7.1 While a decision to continue with PII in the event of you or your business becoming insolvent may be taken out of your hands, if you are the principal or director of a practice you should still take appropriate steps to protect the interests of your former clients and building users. This should include making enquiries as to whether run-off cover can be put in place to cover previous liabilities, and inform your present and previous clients of the position.
- 7.2 If you are voluntarily closing your business then you are expected to ensure that adequate run-off provisions are put in place to cover outstanding liabilities. Such a step should be regarded as part of the expense of winding-up a practice, and should be taken regardless of whether or not you practise as a sole trader or through a limited company or limited liability partnership.

## **8. Notifications**

- 8.1 It is important to understand that your obligations are not met simply by having adequate insurance in place. To avoid the danger of your insurers refusing to cover a claim, it is vital that you notify them – at the earliest opportunity – of any circumstance that is likely to lead to a claim. You should understand the conditions of your insurance policy in respect of notifications and seek advice from your broker if you are in any doubt as to whether an incident requires referral to the insurers.
- 8.2 You should be extremely careful when completing proposal forms for new insurance or confirming renewal of cover. Great care should be taken in ensuring the information submitted is complete and accurate, so not to run the risk of invalidating the policy.

*DISCLAIMER: The contained information is for general guidance only and should not be relied upon in place of professional advice. ARB does not accept any duty to advise on the appropriate terms of cover required in specific cases.*

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