

# Confused about insurance?

Gareth Graham answers your questions

Hello all! I hope you and your family are well and staying safe at this difficult time.

I am aware of the impact the coronavirus has had on the industry, and for more information on our response here at Performance and some guidelines, please visit [www.astonlark.com/performance](http://www.astonlark.com/performance).

As a large number of you will be aware, Performance Film & Media operates the public liability insurance and professional indemnity facility that the ALD arranges, which is renewable on 1 April each year.

With this issue of the magazine going out so close to the renewal of the facility, and a recent influx of questions from different members regarding the cover, Ian has asked me to write a piece, first by explaining some features of the cover and then by doing a mini question and answer piece based off the most common questions we have seen from members in the last two years.

Before I begin, I should make it clear that the purpose is to provide and outline and overview, the full terms, conditions and exclusions can be found in the full documents that can be provided by the ALD.

## *An outline of the cover*

### **Public liability**

- Public liability insurance provides cover in the event you are found to be legally liable for bodily injury suffered by third parties, or loss of or damage to third party property arising in the course of your business.
- The limit of indemnity is £10,000,000.
- Access to a risk solutions helpline provides advice on risk management, compliance, security and health and safety by phone. This helpline is available from 9am to 5pm on Monday to Friday, excluding bank holidays.
- Aviva's website offers tools and resource to help manage your business more effectively.
- Cover is for insured members only while they are employed and/or carry out their duties as a lighting designer/technician which includes design, preparation, installation, maintenance and operation of lighting rigs, working as a video and projection designer and/or technician, the teaching or mentoring of these activities and as a manager or technician in the theatre, entertainment and live event industries.

- Cover allows members domiciled in the United Kingdom to work anywhere worldwide. Areas where the United Kingdom Foreign and Commonwealth Office advise against travel to will be excluded unless agreed in writing by Performance.
- Claims referral criteria:
  - No previous claims in three years – acceptable.
  - One claim with less than £5,000 paid in three years – acceptable.
  - One or more claims with a value exceeding £5,000 in three years – referral to Performance for sign-off.

### **Your questions and my answers!**

As we are starting the second year of the public liability insurance facility I thought it would be useful to share some of the common questions we have had from the board and members in the last year around activities relating to the cover afforded by the public liability insurance.

#### ***Q. Is there any restriction around working at height?***

A. Cover is provided for work up to a height of 40 metres providing a written risk

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assessment is carried out and a record kept for three years. Written risk assessments are only a policy condition when the work at height exceeds 10 metres.

**Q. Can I also use the cover if I am working outside of the UK?**

A. The public liability insurance allows members to carry out work worldwide; however, where the UK Foreign and Commonwealth Office advises against travel to an area, written confirmation of cover needs to be sought from Performance.

**Q. Am I covered for working on or in offshore installations?**

A. No, cover is excluded. Performance can look to provide insurance for this on a project-by-project basis.

**Q. What about public liability cover for working at airports (non-airside only)?**

A. Cover is provided at a reduced limit of indemnity of £2,000,000. If cover above this limit is required please contact Performance.

**Q. What about filming involving the use of heat?**

A. Cover is provided at a reduced limit of indemnity of £5,000,000. If cover is required above this limit, please contact Performance.

## Professional indemnity

- Professional indemnity insurance protects businesses and individuals against legal liability arising from advice or services provided.
- The limit of indemnity is £1,000,000.
- The territorial limits are worldwide.
- The jurisdiction is worldwide excluding USA/Canada (if you sign North American contracts you will need to obtain a separate policy).
- Cover is for insured members only while they are employed and/or carry out their duties as a lighting designer/technician which includes design, preparation, installation, maintenance and operation of lighting rigs, work as a video and projection designer and/or technician, the teaching or mentoring of these activities and as a manager or technician in the theatre, entertainment and live event industries.
- Claims referral criteria:
  - No previous claims in three years – acceptable.
  - One claim with less than £5,000 paid in three years – acceptable.
  - One or more claims with a value exceeding £5,000 in three years – referral to Performance for sign-off.

You can find details of the ALD's combined liability insurance at [www.ald.org.uk/members-benefits/combined-liability-insurance-policy](http://www.ald.org.uk/members-benefits/combined-liability-insurance-policy)

Over the last few years we have seen an increase in requests for professional indemnity insurance, which up until recently (in our experience) has rarely been at the top of the list when freelancers or companies consider their insurance requirements for the year ahead.

In very simple terms, professional indemnity insurance protects businesses and individuals against legal liability arising from advice or services provided. I have put together a few of the considerations you may wish to consider when thinking about professional indemnity insurance.

### (a) Do I have any exposure?

In my opinion this is as good a place as any to start. In United Kingdom law a professional owes a greater duty of care to their customers than an ordinary person. Back in the "old days" it was thought that only accountants, surveyors and the like had the need to have professional indemnity insurance; however, now highly qualified people operate in countless industries, from television/theatre to marketing to technology, to give a few examples.

Ask yourself whether you provide either advice or a service. If the answer is yes, then you should be considering PI insurance.

### **(b) Contractual requirements**

One thing that is important to consider is the cover that your clients expect you to have. A client may dictate that you hold a specific level of insurance within the contract conditions you agree to (common when working for broadcasters), whereas some may ask for proof of insurance prior to approving you as an acceptable business to trade with, or when deciding which company will win their tender. I'd suggest when looking at the options for the level of cover you may need to check what limits clients have asked for previously and whether they demand certain extensions.

### **(c) Geographical limits and jurisdictional limits**

Very simply put:

- geographical limits concern the physical location where the advice was given, or the service provided; and
- jurisdictional limits concern under which law claims can be brought against your business.

Legal action in the USA and Canada has been notoriously expensive for decades, with any claims bringing higher costs, punitive damages and the prevalence of class actions. This means insurance policies with a worldwide jurisdiction are usually more expensive or can on occasion include more restrictive terms.

First, consider where you operate and where your customers are based. Analyse what proportion of business relates to

work for USA/Canada clients, and the type of work undertaken (as some activities are more hazardous than others)

You should be aware that if you work for USA/Canada clients insurers will view this as your business having an increased exposure in the majority of circumstances and therefore the cost of including the appropriate cover will be reflected.

### **(d) How much do I need and how much risk could I accept?**

There are many factors to consider, some of which are below.

- What would be the worst-case scenario?
- What impact would that have on the business and how likely is it to occur?
- Could you absorb the loss and continue to trade?
- You need to look at the size and type of contracts the business is involved in. Be aware that it is not just your element of the contract you have to consider but that of the whole project.
- How likely is the business to be subject to a legal action from a customer or other third party?

If you have a repeat exposure then I suggest you consider a limit that is on an "any one" claim or occurrence basis and not aggregated (the limit effectively resets itself for every individual incident).

So when looking at a limit you should consider all of the aspects above in analysing the potential severity and frequency of incidents, then look at what options are available to you and what you can afford.

### **What to do if you're unsure**

If you are in any doubt then please discuss this with us or your insurance broker. This article should act as a brief overview of professional indemnity rather than specific advice to a specific individual/business.

If you have any questions about this article, please email us with the subject line "ALD Focus article", or if you have any other insurance-related questions we may be able to help with, please drop us a line.

If you are happy for your name to be published, please let us know. If you would prefer to be anonymous, then this is perfectly fine as well, and I will only be too happy to ensure your privacy is protected.

We look forward to hearing from you! 🌸

Gareth Graham has been in the insurance industry for over 15 years and is the head of the sales team at Performance. The information provided here is for general guidance only. As all insurance policies operate differently you should check with your usual insurance advisor to ensure that this information is right for you and your personal circumstances.



Performance are film and media insurance specialists and are part of AstonLark Ltd, one of UK's top five independent insurance brokers.

If you would like a quotation for your own business, contact Performance on 020 8256 4929 or visit [www.performance-insurance.tv](http://www.performance-insurance.tv) for details.

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