

Practice Notes Webinar Series

**Webinar 2 – Part 3: Avoiding
and dealing with Professional Indemnity
Claims**

July 2021





Webinar 2 – Part 3: Avoiding and dealing with Professional Indemnity Claims



WHAT TO DO WHEN FACED WITH A PROFESSIONAL INDEMNITY CLAIM
PRACTICE NOTE - PN11 (QRM/risk/13)
STATUS - Current

Category: Risk and Qual
Sub-Category: Risk Man
Revised: October 2020

(i) **PURPOSE:**
To advise consulting indemnity claim and o



HOW TO DEAL WITH PROFESSIONAL INDEMNITY CLAIMS
PRACTICE NOTE - PN014 (QRM/risk/1)
STATUS - Current

Category: Risk & Quality Management
Sub-Category: Risk Management Aspects
Revised: October 2020

(i) **PURPOSE:**
To assist members in gaining a better deal with such claims as and when the



LEGAL RISK MANAGEMENT - THE MOST IMPORTANT POINTS
PRACTICE NOTE - PN43 (QRM/risk/4)
STATUS - Current

Category: Risk and Quality Management
Sub-Category: Risk Management Aspects
Revised: October 2020

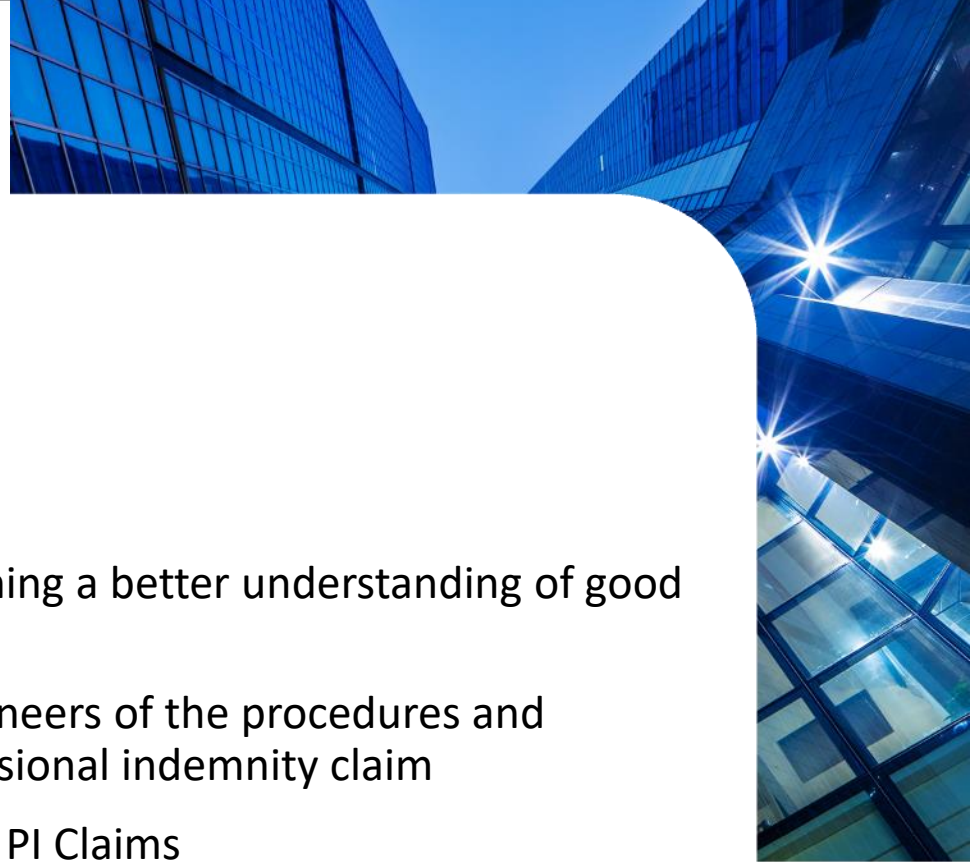
of risk management, and Aon's legal risk management service.



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Introduction

- ◆ Purpose of Practice Notes 11 ,14 and 43
- ◆ Avoiding PI Claims (Prevention)
- ◆ Common Causes
- ◆ Dealing with PI Claims
- ◆ Professional Misconduct



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◆ Purpose of practice notes

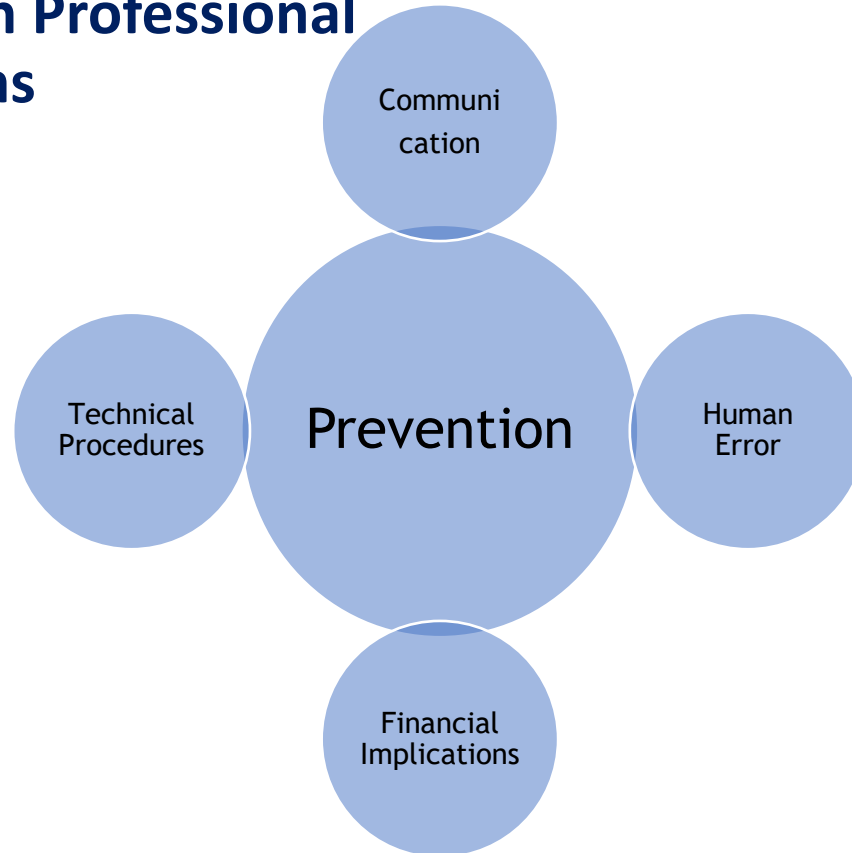
Practice Note 14: To assist members in gaining a better understanding of good procedures to follow to prevent PI claims

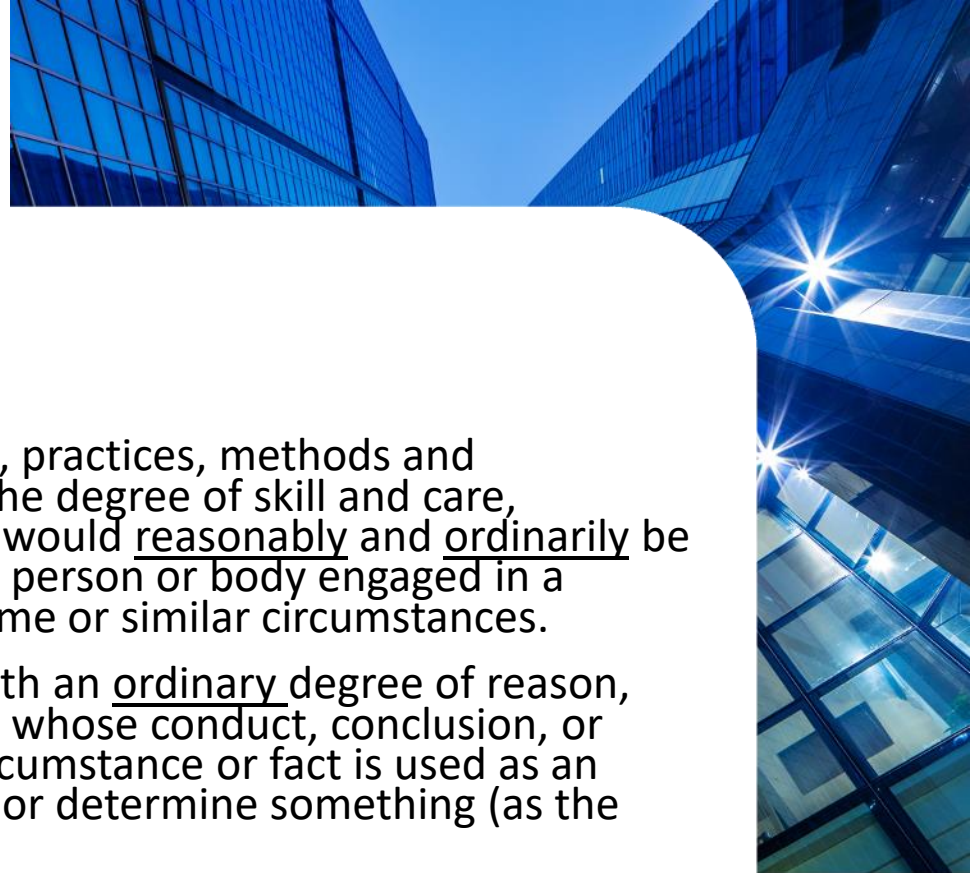
Practice Note 11: To advise consulting engineers of the procedures and process followed when faced with a professional indemnity claim

Practice Note 43: Some common causes of PI Claims



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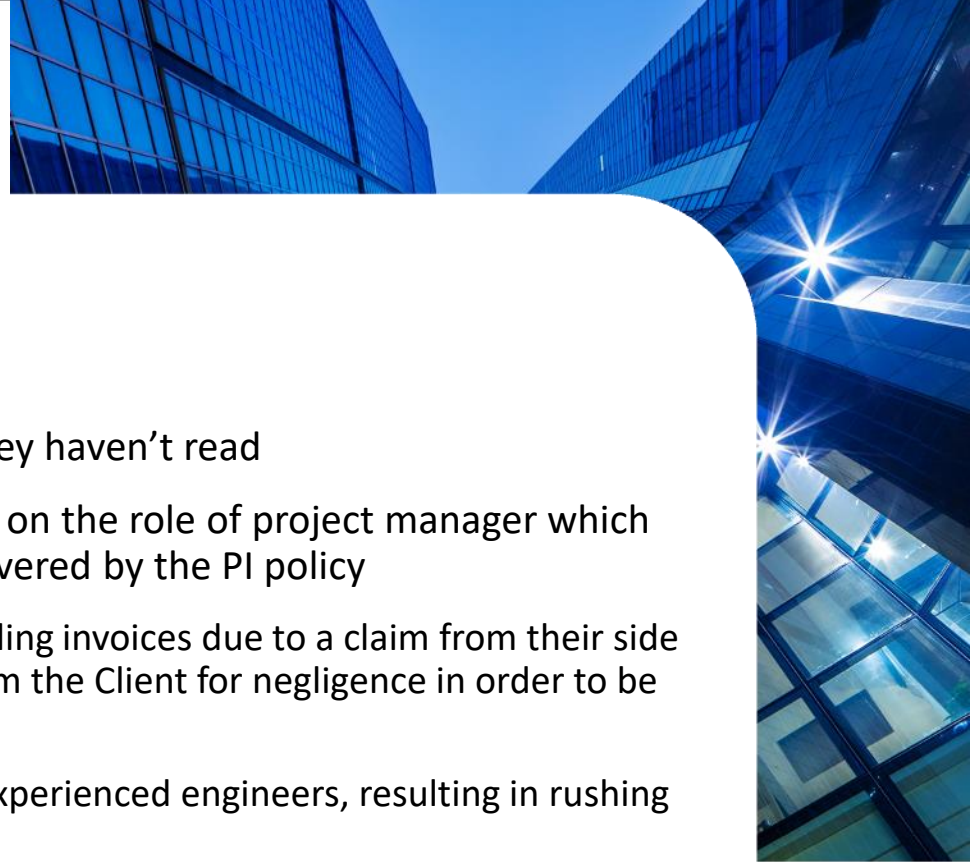


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◆ Useful definitions

- **Good Industry Practice** means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
- **Reasonable person**: a fictional person with an ordinary degree of reason, prudence, care, foresight, or intelligence whose conduct, conclusion, or expectation in relation to a particular circumstance or fact is used as an objective standard by which to measure or determine something (as the existence of negligence)





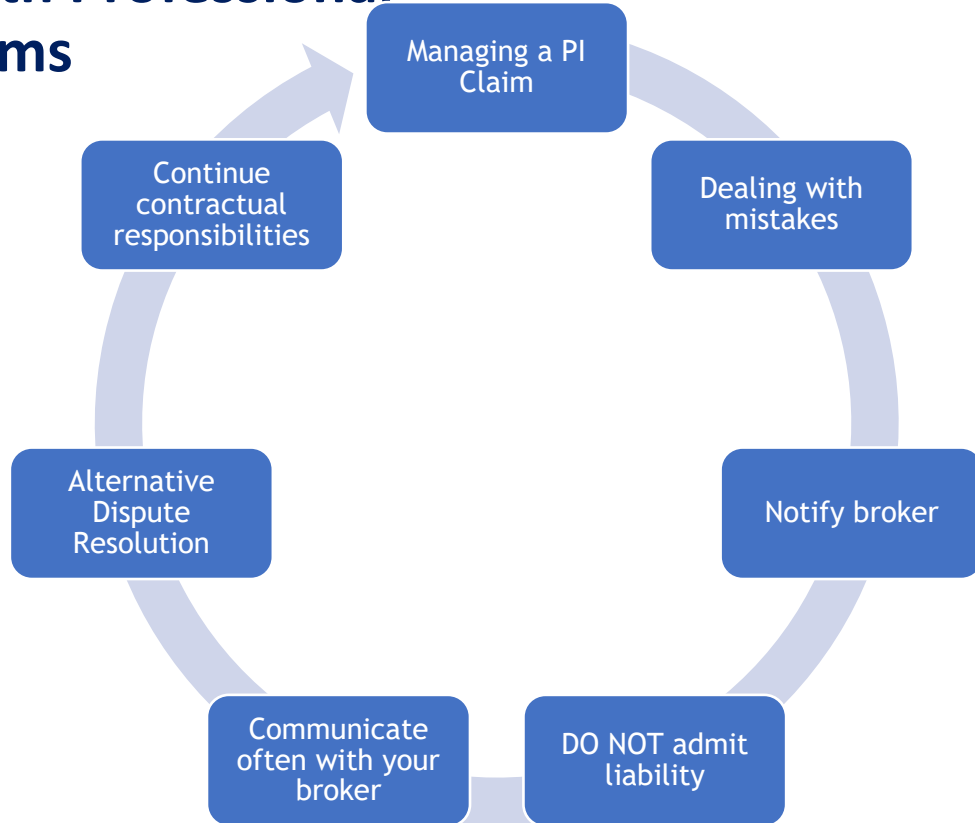
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◆ Common Causes

1. Consulting Engineers signing contracts that they haven't read
2. Construction Management: Specifically taking on the role of project manager which includes scope of work that is not necessarily covered by the PI policy
3. Fee Recovery: The Client refusing to pay outstanding invoices due to a claim from their side of consultant negligence (there must be a claim from the Client for negligence in order to be covered by the PI policy)
4. Under-quoting for a job, especially by young inexperienced engineers, resulting in rushing the work and using less experienced resources
5. Doing the work of contractors: allowing the Client to insert contracting scope into the consultant appointment for example as a subcontract.



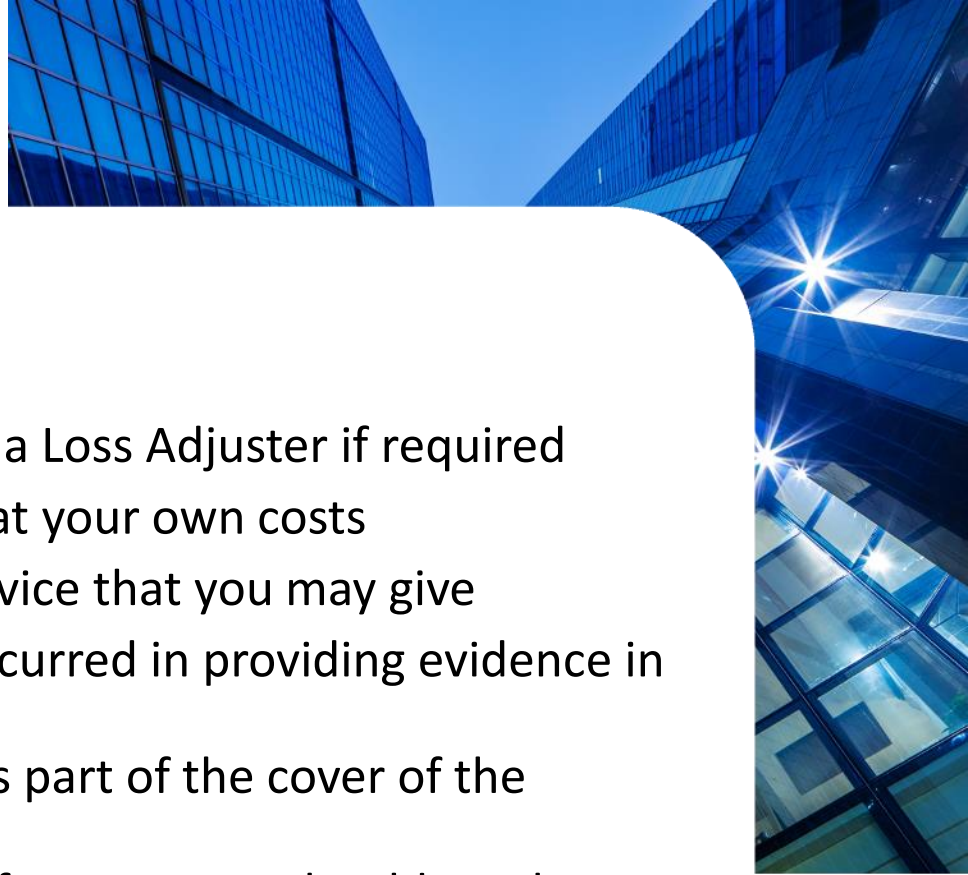
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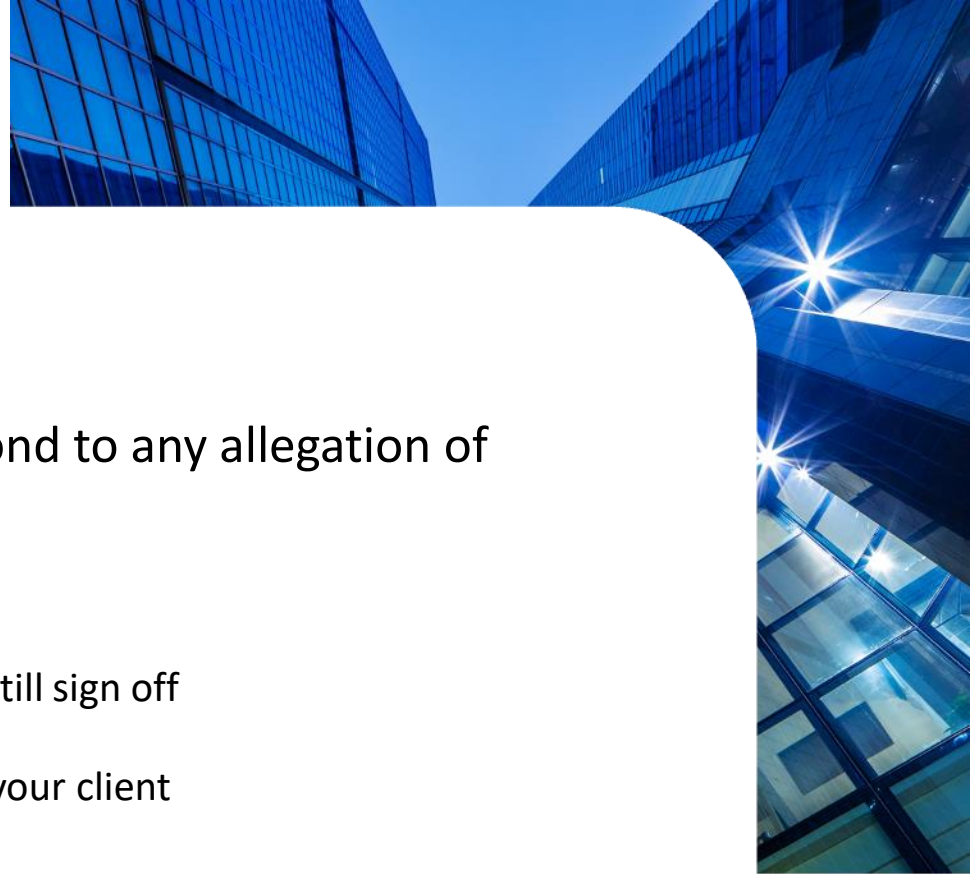


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◆ Actions taken by your insurer

- Insurer will appoint an Attorney and a Loss Adjuster if required
- You are required to assist in a claim at your own costs
- You will be reimbursed for expert advice that you may give
- You will be compensated for costs incurred in providing evidence in court
- Legal costs will be paid by Insurers as part of the cover of the insurance policy
- You will only be liable for payment of your excess should you lose the claim





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◆ Professional Misconduct

- Consult your broker on how to respond to any allegation of professional misconduct
- ECSA will investigate
- Examples:
 - Not to properly review documents but still sign off
 - Not disclosing design errors
 - Hiding project shortcomings to protect your client
 - Knowingly giving wrong evidence
 - Giving or taking bribes



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◆ Conclusion

- The best way to deal with a PI claim is to prevent it from happening
- When it does happen, DO NOT admit liability, rather contact your broker
- Always act professionally



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