

PROFESSIONAL values

# Professional Indemnity Exposures and Planning

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CAAV Member Practices  
Summer Bulletin 2020



# PROFESSIONAL INDEMNITY EXPOSURES AND PLANNING

Our quarterly technical bulletin for summer 2020 looks at an area that can be of concern to Professional Indemnity (PI) Insurers with a focus on some of the risk management measures that a practice might demonstrate to their Insurers are in place at a time when the PI market has hardened considerably.



Eleni Randle of ELDNAR Planning Valuation & Rural Consultancy. Fellow of the Royal Institution of Chartered Surveyors (FRICS); Chartered Town Planner (MRTPI); Fellow of the Central Association of Agricultural Valuers (FAAV); RICS Registered Valuer; RICS Young Surveyor of the Year (Land) Winner 2019; BSc (hons) Physical Geography & Geography/MSc Rural Estate Management.

Following on from recent presentations provided on the issue, our thanks go to Eleni Randle of ELDNAR Planning Valuation & Rural Consultancy (pictured left) who has kindly provided us with her own insight from a practitioner's perspective and writes as follows;

“The planning system is an area of practice which is, quite honestly, like working with a moving target. It is unsurprising that this type of work can leave professionals open to Professional Indemnity (PI) exposures. We all, as individuals and companies, have our own ways of managing our instructions but I wished to share with you my thoughts on how we can best manage and limit our PI exposure from such work, as well as look after our clients.

Many of us are highly regulated as both professional individuals and/or as regulated firms through bodies such as the CAAV, RICS and RTPI. The basic professional (and ethical) standards of such bodies are a starting point for good practice, which in turn, can assist in defending PI exposure. Whilst they may read differently, their objectives are the same.

Firstly, when taking instructions do not be afraid to chase your clients for clear instructions so they can be adequately set out and agreed in your terms of engagement. This is for the benefit of both parties, so you know

exactly what is required. If the scope of your instructions evolves, ensure such changes are agreed in writing. I, personally, find it useful to have a specific fee quote/letter of instruction which is then sent out with my general terms of business as an attachment. This, in my experience, has caught most scenarios as some instructions just do not progress as originally planned for a variety of reasons.

When undertaking development appraisals and providing planning advice it is crucial to manage both your client's expectation and understanding. With the latter it is important to ensure that they are aware that the planning system is a public process which is often reliant on interpretation of a policy or subjective assessment as to impact. In short, there are often several variables which are not always straight-forward in practice. Something as simple as a Phase 1 ecological survey could flag up a requirement for a bat survey which, in turn, could delay submission (depending on the time of year) until a bat survey is done. In the meantime, a new Local Plan could have been adopted and the basis for your initial advice could dramatically change your client's options.

If you are aware there is a Local Plan review, check how far it has progressed and, if it could potentially be adopted during the lifetime of your project – set out briefly the potential impact, but offer assurances that you will monitor any changes. The same goes for any pending legislation or similar.

Standard wording with your instruction letters such as “the planning position at the time of writing is...” can assist with informing clients that there can be changes outside of our control as professionals.

Whilst it is not always easy or practical – write things down and confirm any on-going advice given with your clients. This is of particular importance for retained clients for whom you may provide ad-hoc advice such as when considering a new development or site purchase. At the very least, keeping clear file notes can provide a good record of the advice given, and why, in the event of an issue or challenge.

Finally, within such a fast-paced sector it is even more crucial to stay up to date and ensure instructions are within your competence. If you don't have formal planning qualifications (and even if you do), it is important to ensure that you can demonstrate your competence and experience to justify any advice given if challenged. Attend CPD events relevant to your area of practice and record them as appropriate.



We hope readers will find the above to be of some assistance whether in terms of useful tips or simply in highlighting an area in which your practice can demonstrate sound procedures enabling a more sympathetic hearing from your Insurers when policy renewal comes around and indeed would invite members to seek quotations from the PII facility which does of course look to reward what we believe to be the greater professionalism of CAAV member practices, in terms of the cover and pricing offered.

Contact us below if you wish to discuss further and do look out for our regular Practice Notes and Bulletins.

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