Apex Insurance
Brokers

FIRE SAFETY AND PI EXPOSURE FOR CONSTRUCTION PROFESSIONALS

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WHY FIRE SAFETY BECAME A PI UNDERWRITING QUESTION

The Grenfell Tower fire in 2017 and the subsequent regulatory response transformed how PI insurers underwrite construction professionals. Cladding-related claims emerged in volume from 2018 onwards; insurers responded with aggregate sub-limits, fire-safety-specific exclusions, and an intensified scrutiny of any work involving combustible materials, compartmentation, fire-stopping or external wall systems. For architects, surveyors and engineers, the renewal conversation now includes a separate fire-safety section.

THE LEGISLATIVE FRAMEWORK

Three pieces of legislation drive the current exposure:

- The Fire Safety Act 2021 clarified that the Regulatory Reform (Fire Safety) Order 2005 applies to external walls, including cladding, and to flat entrance doors in residential buildings
- The Building Safety Act 2022 created the Building Safety Regulator, the new dutyholder regime for higher-risk buildings, and the section 135 extension of the limitation period under the Defective Premises Act 1972 to thirty years retrospectively
- The Building Regulations 2010 as amended (Approved Document B) tightened the technical fire-safety requirements for relevant buildings

CLADDING AGGREGATE EXCLUSIONS

From around 2019 most PI insurers introduced a cladding aggregate — a sub-limit applying to all cladding-related claims combined within the policy year — alongside a tightly defined cladding exclusion for some risks. The aggregate is often substantially lower than the policy's general limit and may be lower than a single anticipated claim. Architects who carried out cladding design or fire-engineered facade work in the relevant period should expect this position; engineers performing structural assessment of external walls should expect equivalent treatment. The cladding wording varies between insurers and matters more than the headline limit.

THE BUILDING SAFETY LEVY AND DUTYHOLDER REGIME

The Building Safety Levy introduced under sections 105 to 107 of the BSA 2022 imposes a charge on developers of new residential buildings to fund remediation of unsafe buildings. The Levy itself does not fall on PI insurers, but the dutyholder regime under sections 33 to 45 creates new statutory duties on principal designers (a distinct role from the CDM 2015

principal designer) and principal contractors for higher-risk buildings. Breach of those duties is an actionable basis for a PI claim. Firms taking the principal designer role under the BSA should confirm their PI wording covers it expressly.

HOW INSURERS UNDERWRITE HIGHER-RISK BUILDINGS NOW

For projects within the higher-risk building definition — broadly residential buildings of at least 18 metres or seven storeys with at least two dwellings — insurers ask:

- What role did the firm hold (designer, BSA principal designer, building control consultant)?
- What is the firm's portfolio of higher-risk building work over the past decade?
- Has any cladding, compartmentation or fire-stopping work been notified as a claim or circumstance?
- What internal QA process applies to fire-safety design and what external review took place?

The answers shape the cladding aggregate, the excess on fire-safety matters, and in some cases the willingness of the insurer to write the risk at all. D&B contractors face the same questions on the design portion of their work, with an additional layer of fitness-for-purpose exposure under the building contract.

WHAT FIRMS CAN DO

The PI position is partly a function of the firm's portfolio and partly a function of how the renewal submission is presented. Apex prepares fire-safety submissions that document the firm's higher-risk building work, the QA process, any notifications already made and the firm's response to the dutyholder regime. A firm that walks the insurer through the position generally secures more favourable terms than one that returns the questionnaire and waits.

RELATED PROFESSIONAL INDEMNITY GUIDES

- Architects PI
- Surveyors PI
- Engineers PI
- Design And Build Contractors PI