

26th May 2021

**Opening statement to Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and
Taoiseach**

Professional Indemnity Insurance

Chairperson John McGuinness, Deputies and Senators,

(1) Thank you for the invitation to give evidence to your committee on the serious concerns and difficulties faced by engineering professionals obtaining professional indemnity insurance in 2021. My name is John Power and I am Vice President of Engineers Ireland and a Chartered Engineer.

(2) Engineers Ireland is one of the oldest and largest representative bodies on the island of Ireland, with over 25,000 members. This membership incorporates all disciplines of the engineering profession in Ireland: in consulting and contracting organisations, the public sector, semi-state bodies and educational institutes. Our members are organised into Regional branches, Engineering Divisions and Societies, including our Fire and Safety Division.

In respect of PI insurance generally

(3) A professional engineer offering a professional advisory, certificate or opinion is required to hold professional indemnity insurance. The PI insurance issue is quite broad for engineering professionals and affects fire safety sign-off, procurement, and structural sign-off. It is intended to protect professionals and their businesses in the event of a claim arising from a loss as a result of non-performance, or negligence in the services provided. In addition, the policy can cover legal and other costs and expenses incurred in the defence of any claim, which can, in many cases, be a substantial portion of the overall costs in processing a claim. PI cover is also required for any work to existing buildings including refurbishment, extensions and change of use.

(4) An important difference between professional indemnity insurance and other insurance policies is that professional indemnity insurance is written on what is called a 'claims made' basis. It is the policy in force AT THE TIME that the CLAIM IS MADE that deals with the claim, rather than the policy in force at the time WHEN the work was done.

As an example, a practice is asked to complete a project in 2016, but the client doesn't make a claim until 2021. As a result, it is the policy in force in 2021 that deals with the claim rather than the

cover in place in 2016. Therefore, PI Insurance is generally required to be kept in place for at least 6 years after the project's completion.

I would like to introduce Michael P. Lyons, Chairperson of the Engineers Ireland Fire and Safety Division and a Chartered Engineer.

Thank You John, and Thank You Chairperson

(5) Our members work in both the public sector and in the private sector. This Professional Indemnity (PI) Insurance issue affects those in the private sector immediately but the crisis will have adverse implications for the public sector, particularly when it comes to delivering housing completions. Those engineers having PI Insurance would include Sole Traders, fire safety engineering practices of 3-4 engineers up to Practices of over 20 to 30 employees. Generally, engineering practices would typically carry out fire safety design, inspections and certification of fire resisting construction, fire safety systems, electrical and mechanical systems for fire detection, emergency lighting, smoke control and active fire suppression. Activities requiring inspection and certification include the construction of fire resisting floors and external walls in houses, smoke detection systems in houses as well as specifying proper materials on cladding systems, wall and ceiling linings. All such design and construction is required to comply with Ireland's Building Regulations for fire safety.

(6) It should be noted by the committee that 12 years PI insurance cover is the norm when a collateral warranty is in place. This requires that a practice be able to renew their PI insurance cover for each of the succeeding 12 years.

In respect of PI insurance in 2021

(7) Insurance underwriters, which are mostly UK-based, have withdrawn from the Irish market. Therefore the amount of capital to cover PI insurance claims has reduced, precipitating a prohibitive and exorbitant rise in premiums, excess and the imposition of more restrictive terms including the exclusion of covering fire safety related work. The high levels of PII required as part of procurement contracts and multiple risks means cover is replicated and risk is pushed down the insurances supply chain.

(8) As a result of the above, many engineering practitioners are finding it increasingly difficult if not impossible to obtain cover at reasonable costs. Some fire practitioners are being refused cover or

just not quoted. Many are only being offered policies with fire safety being excluded from cover and policies are offering much lower limits on individual and aggregate claims. If the current trend persists, after a year of restrictive renewal notices, there will be relatively few firms in a position to offer fire safety certification for design and for construction. This will impact on all of the construction industry, on the approval of designs, on the commencement of projects or on the handover of completed projects such as housing, flats, nursing homes and factories.

(9) PII premiums are priced on a number of factors including the practice's turnover and the values of projects that the firm is involved with. The culture of below cost tendering, inappropriate risk transfer and costing in tenders directly impacts on the estimated level of capital required in the PI Insurance market. The underwriting of the insurance industry in Ireland is Anglo-centric. There are impacts from Brexit but also from contagion due to developments in the UK market e.g. the liquidation of Carillion in 2018 and the Grenfell Tower fire in 2017.

Conclusion

(10) Engineers Ireland has been raising this issue along with our colleagues in the Construction Industry Council. We welcome the attention that the Committee is giving to professional indemnity insurance and we look forward to working with the Committee, Government and other stakeholders towards a solution.

Thank you.

Michael P. Lyons, Chartered Engineer

John Power, Chartered Engineer