

Agricultural and land consultants

Consultants face challenges of immense complexity.

- the environmental imperative of maintaining and enhancing a resource base to meet the expectations of an ever widening interested community. For example
 - At the farm/garden level - issues of soil structure, acidification, salination, output and design
 - At a county/local level - aspects of de and re forestation, waste disposal and pollution
 - At a national and international level - the issues of environmental and ecological change
- the need to be competent in handling business, human relations, production planning and operational issues
- the need to be aware of and complying with ethical and legal codes of practice.

No land manager can be expected to be fully conversant with all markets, technologies of production, legislation changes, environmental processes, and other related issues. Yet increasingly there is a need for advisers and consultants to provide the necessary specialist input to land management operations. As the need for specialists has grown, so has the range of competencies generally acknowledged as essential. These now include:-

- **Communication skills** to deal with conflict resolution, presentations, negotiations, expert witness situations and increasingly media related scenarios.
- **Business skills** – their own business as well as understanding client needs, advisory publications, reports, seminars and support
- **Risk management and assessment competencies** to deal with such areas as climate, production, environmental management as well as health and safety or strategic planning
- **Natural resource management skills** – long term perspectives, holistic views (ecological and social), impact assessment, on/off site issues relating to resources, environmental protection, regulatory framework, documentation (records), biodiversity and ecosystem services.
- **Professional skills** – their role and responsibilities and adherence to regulatory and legal codes

As more sectors of the rural community than ever before turn to a professional consultant to assist them in making sound business decisions so does the likelihood of a claim or circumstance being made against them increase. And contrary to popular belief:-

- **The cost of defending a claim – even an unfounded one can be substantial**
- **even the most innocuous of risks can produce claims**
- **without protection, financial security can be threatened**
- **ultimate loss is not necessarily restricted to some prearranged monetary amount or company limitation. It can extend to the full value of a personal fortune.**
- **You don't have to be in the wrong to be sued**

The following claims examples help explain the types of risks businesses may be exposed to. They also serve to highlight how successful claimants can be and how sobering the amount of the award is on a company's bottom line!

Details	Cost of claim
Advice provided on the application of herbicides produced a non saleable product.	£12,000
Advice to spray crops with a growth regulator resulted in the farmer suing for the subsequent loss of yield.	£14,000
Negligence was alleged in establishing saplings on the wrong ground	£100,000
The design and remodelling of a lawn, resulted in subsequent waterlogged areas.	£29,000
A pond designed was not water tight and a claim was made for the cost of the lining.	£15,000
Negligent advice was claimed in connection with obtaining planning permission on a plot of land.	£180,000
In an attempt to obtain lucrative business certain remarks were made about a rival firm. The rival firm demanded a retraction and damages.	£8,000
The claimant's lease was terminated following a failure to register an application under the Landlord & Tenant Act	£25,000
The client's crop suffered from a fungal disease as a result of the alleged failure to provide correct treatment advice.	£10,000
The client alleged negligence in work undertaken for a co-operative	£100,000

The object of professional indemnity insurance is to provide cover for sums you have to pay as compensation as well as defence costs and expenses in respect of claims made against you for

- Negligence or breach of duty of care
- Negligent misstatement or misrepresentation
- Infringement of intellectual property rights
- Breach of confidence or misuse of information
- Defamation
- Dishonesty of those employed by you

And potentially any other civil liability claim made during the period of insurance arising from the duties and services provided (and as provided for in the policy).

The coverage extends to include the following professions:-

- Agricultural consultants
- Horticultural consultants
- Forestry consultants
- Ecologists
- Landscape architects
- Town planners
- Garden and landscape designers

During the completion of the proposal form and when selecting the limit of protection deemed adequate, the following factors should be considered:-

- The number of claims are set to continue to increase, given the more litigious environment that exists today
- Claimants will often consult experts in making their case and you have no control over these often expensive costs. These costs will form part of any award made against you and the limit of indemnity will need to be adequate to cater for them
- The policy operates on a 'claims made' basis which means that the policy and the limit in place at the time a claim or potential circumstance is first notified and accepted will apply to the claim until it is concluded. The policy and cover in place at the time when the work was performed are irrelevant
- Claims can take many years from first notification to final settlement and any cover arranged should ensure some 'future proofing'.
- Even earning a modest fee does not mean that the resulting legal liability flowing from a breach of duty will be equally small. We have dealt with many clients with claims running into five or six figures where the firm's fee was only a few hundred pounds.

For further information please contact cefynjames@visionunderwriting.co.uk