



OGPCP202-005-2022

9 February 2022

To: Heads of Departments/Offices

Circular 05/2022:

**Construction Procurement Reform – Revised Guidelines for Professional Indemnity Insurance
Levels in Public Works Projects**

A Dhuine Uasail,

1. Introduction

I am directed by the Minister for Public Expenditure and Reform to inform you of revised guidelines for professional indemnity insurance (PII) for public works projects procured under the Capital Works Management Framework (CWMF). The guidance and revised procurement documents associated with the procurement of works-related consultancy services come into effect from the date of this Circular, those associated with the procurement of works contractors will be published before the end of February 2022.

These revised guidelines are being introduced in recognition of the significant changes in the cost and availability of PII over the last 18 months. The revised guidelines introduced by this Circular are designed to reflect the level of insurance currently available thereby ensuring that contractors and consultants can continue to participate in competitions for public works projects whilst maintaining levels of insurance that are proportionate to those projects.

2. Revised Professional Indemnity Insurance Guidelines

The revised guidelines for PII include:

- New guidelines for minimum standards of PII sought by contracting authorities at pre-qualification stage;
- Advice regarding parties currently under contract who are unable to maintain PII at the level required by the contract as a result of the changed market conditions;
- Where pre-market engagement indicates that the level of PII available for purchase by contractors or consultants does not meet the project's requirements, advice regarding alternative forms of insurance a contracting authority may consider purchasing;
- Relevant matters to consider when determining the manner in which design teams and contractors are to be appointed having regard to the potential impact on liability and PII.

These new guidelines are outlined in a new CWMF guidance note: GN 1.1.2, *Professional Indemnity Insurance – Application in the CWMF*. Existing CWMF guidance notes¹ outlining minimum standards for professional indemnity insurance have been revised to reflect this new guidance where appropriate. All guidance notes are available on the CWMF website constructionprocurement.gov.ie.

3. Ongoing Monitoring of Professional Indemnity Insurance Guidelines

The Office of Government Procurement (OGP) will closely monitor the suitability of the professional indemnity insurance guidelines introduced by this Circular. If required, the OGP will issue further updates to these guidelines via publications on the CWMF website. Contracting authorities are advised to consult regularly the [guidance notes](#) page of this website in order to ensure that the levels of PII sought by them in public works procurement competitions are up to date.

4. Introduction of Liability Cap

In addition to the revised guidelines at section 2 of this Circular taking effect, the OGP is currently devising an amendment to the standard forms of public works contract and conditions of engagement to introduce a cap on both contractors' and consultants' liability. The contract amendments to implement this cap, subject to stakeholder consultation, are intended to be published on the CWMF website in the second half of 2022.

5. Further Information

For further information/clarifications in relation to the revised Professional Indemnity Insurance guidelines, the Construction Procurement Policy Unit at the Office of Government Procurement should be contacted at the following email address: construction@per.gov.ie.

Mise le meas,

David O'Brien

Senior Construction Procurement Policy Adviser

Office of Government Procurement

¹ These are primarily guidance notes GN 1.6.3 for consultants and GN 2.3.1.3 for contractors.