



INSURANCE OPTIONS FOR THE HEALTH PROFESSIONAL

By David Balen Cert PFS

(Extracts from the 2 chapters on this subject in the Book “Healthy Practice” by Madeleine Harland and Glenn Finn revised and updated by the author)

Property Insurance. Insurance and working from home Accidental loss and damage cover. Employer's Liability. Public Liability. Public Liability with treatment risk extension. Professional Indemnity and Malpractice policies. Product Liability.

We now look at insurance for the practitioner for their own protection, the protection of their patients and the general public. Insurance is an essential factor in any business and is particularly relevant to practitioners in their contact with patients. Indeed, it is an integral aspect of professionalism, and is particularly important in the current climate of greater recognition. More and more people are turning towards other approaches to health and healing, leading to greater exposure, and consequently a greater possibility of situations occurring or allegations of negligence against practitioners taking place. There are already signs of this happening. Furthermore, there is the ongoing desire for harmonisation in the practice of Medicine within the Single European Market. The Government bodies want to see more accountability and less fragmentation. Indeed the latest view is to try and bring all types of auxiliary and complementary medicine under the Health Professions Council and regulated Federally.

However these regulation initiatives post-Shipman work out, there is a move towards greater quality control in areas of training standards, codes of conduct, ethics and insurances. In the past, insurance was seen as a necessary evil, or even not considered important at all, especially by a number of practitioners who relied on the fact that their type of therapy was safe or that they had never had a claim in their career, or simply because they did not philosophically believe in it ! Many relied on their Professional Associations to source and provide a block cover, usually with mixed degrees of success. For the private practitioner, the options are:

- a) to self – insure, insure as conveniently, quickly and cheaply as possible, or
- b) to take time, check out the market, and
- c) go for a quality solution- information regarding scope of cover and small print take time to understand and absorb. A good question to ask yourself is “Who do I want at the end of a phone, if my livelihood and reputation are being threatened, or I have a catastrophe of some description on my hands, and I need support?”

We will now explore some of the principal types of Insurance that are relevant to you in setting up your practice, and protecting it against unforeseen mishaps which may arise!

Household Insurance

The standard householders policy will cover the building of your home or the contents for specific perils like fire, lightning, storm damage, overflowing of water, explosion, earthquake, aircraft, riot and civil commotion, malicious damage, theft and subsidence. Most policies offer an extension for accidental damage, to **cover** such things as staining, breaking, tearing, scratching insured items. A word of warning for the practitioner; the standard house policy is intended for a home which is occupied residentially and many insurance policies will not provide cover where there is business use, especially not if members of the public are routinely coming in. Some Insurers take the view that if the house is used for business purposes, the risk is changed and may well be increased. It is vital that insurers are advised of business use so that they cannot repudiate a claim because they were not informed. This is technically called a material non —disclosure.

It is very important that you confirm your position with the insurer and preferably obtain a satisfactory response in writing. There are now a number of policies which combine Home and Business covers, but check these out before buying, as they can be a little inflexible and can be more expensive than a specialist Surgery/Office policy plus ordinary Household Insurance combination.

If you are ethically minded, there is an insurer who gives a discount if you are involved in charity work etc. Some insurers operate no claims bonuses, some give a blanket sum insured and others rely on you to calculate your sum to be insured.

I recommend that you consult a reputable, registered broker to explore the policies on offer.

Surgery /Practice Room/Office Combined Packages

These policies cover the general contents of the practice for perils such as those for Household Insurance for your furniture, equipment and stock. Typically, the first £50, £100 or even £250 may not be covered. This is known as the 'policy excess'. There may be items of equipment that may be expensive and delicate in your clinic. These might be accidentally damaged, knocked over or broken. You need to ask your insurer for wider accidental damage cover if you possess such equipment.

These policies also provide various other covers. Public Liability cover if, for example, a visiting patient is injured whilst on the premises and there is alleged negligence giving rise to a legal liability on the part of the practitioner. Employers Liability, which would cover any allegations of negligence causing injury to an Employee (such as a receptionist or assistant).

This Insurance should also cover you for the loss of money in notes, coins and cheques on or off the premises for specific amounts. We know a number of instances when busy practitioners have been engaged in consultation, the clinic bell has rung, the receptionist has gone out to run an errand, and the cash box has been opened and the contents stolen. Loss of Profits or Increased Cost of Working **cover** following property or contents damage, where the practice room is rendered unusable, and other optional covers, such as All Risks for items in transit, or temporarily removed, can be covered.

Because you need help and guidance through the various options available, again, we would recommend that you consult a reputable, registered broker, preferably a specialist, in order to explore the policies on offer.

Employers Liability

If you employ other staff, it is a legal requirement that you effect employers liability insurance. If you use volunteers or have work experience students, you should also consider it. If you sub-contract to other self employed people, this does not apply. An employers liability policy will meet the cost of any damages or other legal costs incurred where you, as the employer have been held to be liable in some way. Typically, an employee could claim that the premises were unsafe or injury had been caused by the equipment in the clinic Your policy will only provide cover if you are legally

liable. but there will be a generous limit of indemnity of £10 million for any one incident. If a payment is made to an employee, the damages awarded will relate to the seriousness of the injury and financial loss of the employee. Most Surgery Packages include this, as mentioned above. However beware if you or your company are involved in lifting and handling, as Office policies are not designed for this sort of thing, and you need a different kind of EL policy. If involved with Carers who may be employed by an Adjuster or Disabled Person, there are special policies available for this.

Public Liability

Public liability is simply an insurance to protect the practitioner against a claim from a member of the general public or any other third party, if they could be held legally liable for injury or damage caused. Such policies usually have a limit of £1-2 million for any one payment, although these days, £5,000,000 is not uncommon. It is sometimes known as 'trip and slip' cover. If a patient/client were to trip over your carpet or fall down the stairs, he or she might be seriously injured. If the carpet was threadbare or the stairs unstable, the practitioner would find it hard to defend an allegation. A public liability policy enables the practitioner to sleep peacefully at night, knowing that he or she would be fully protected if such an unfortunate and unforeseen accident occurred. You have a responsibility to make sure that your premises are safe and any potentially hazardous items should not be left lying around. The same applies if you rent rooms at a Centre. Although the owner may say that they have Public Liability Cover, this will protect *them* if they are deemed legally liable, but not if you were held to be legally liable, e.g., you might be accused of damaging the room in some way, or your patient/client may be injured as a result of something you have done, so please don't rely on someone else's policy to protect you, as a number of practitioners sometimes do!

Public Liability with Treatment Risk Extension

In the early days of specialist health professional insurance, the majority of policies to protect practitioners from claims were somewhat restricted in scope. Of these, the general public liability insurance with a treatment risk extension tagged on to it was and still is, the most commonly available. Others currently available only cover practitioners if they injure someone or damage their property, but not for any medical malpractice. A psychotherapist, counsellor or hypnotherapist or any other health professional could conceivably find that their policy does not insure them for a claim of psychological damage filed against them. Additionally, these types of scheme may only cover one therapy. Practitioners who practise two or more therapies may find that they have to pay extra for the additional disciplines practised. Public liability with a treatment risk extension is often only valid either whilst the practitioner is treating, prescribing or advising a patient and normally covers the practitioner for incidents occurring in the year insured. Claims arising from the past are not always covered, and a further disadvantage is that they cannot be upgraded in future years, to safeguard the practitioner for any as yet undiscovered claims, which may surface at a time when court awards and inflation have gradually eroded the value of the indemnity limit (typically £500,000 or £1,000,000) which applied to the year when the treatment took place.

Professional Indemnity/Medical Malpractice Insurance

In this day and age, the treatment risk extension is simply not adequate. The general public are much more aware of their rights and will sue a practitioner if the treatment they have received has in any way caused them injury, pain or suffering, or if there is a pure financial loss, allegation of Breach of Confidentiality, Libel and Slander etc. In an era of increasing competition amongst therapists, allegations of libel or slander have arisen not just made by patients or clients, but also from other practitioners or teachers.

Under the Statute of Limitation, if someone wishes to sue you, they have to initiate proceedings within a 3 year period for injury claims, or 6 years for damage or financial loss claims *from the date of discovering the problem*. In the case of a minor, these limits apply after the age of majority (18), and for those without capacity, or with learning difficulties etc, there is no limitation, and we recently learnt of an attempt to sue a surgeon 45 years after the event! He was in retirement and fortunately still had the notes, so the claim could be repudiated.

Professional indemnity insurance is *practitioner* based rather than therapy based. A good policy should insure the practitioner for full professional indemnity risks as well as public liability referred to above, and product cover referred to later. The policy should cover more than one clinic where appropriate and be flexible enough to include all of your therapies and activities. The insurers will require copies of certificates or qualifications and the premium will be based on the number and the nature of those therapies and activities.

Professional indemnity will cover the financial loss or damages arising from negligence, while public liability will cover damage to property. If you should be unfortunate and accidentally smash a Ming vase while on a house call, your public liability policy should provide cover !

Unlike a motor insurance policy, which provides cover for the damage at the time it occurs, a professional indemnity policy usually provides cover at the time the mental, emotional or physical injury is reported to or discovered by the practitioner, thus a current policy would provide cover in respect of treatment carried out some years previously but where the client has only now reported injury.

It is important when you effect a malpractice policy to agree with the insurers the number of years that you have been practicing, for which they will now meet a claim. The technical term is 'the retroactive date'. When you terminate the policy, you will need to arrange « run — off » cover to ensure that your protection is ongoing, and can be revised from year to year, until you are clear of the statute of limitation period. Balens have recently introduced a new concept to the market place- the “hybrid” wording, which combines the long term security and lower cost of a claims occurrence wording, with the upgradeability of claims made.

You should also appreciate that these liability and indemnity policies only cover civil liability or negligence. Allegations of Criminal Negligence or allegations of sexual impropriety, discrimination, Tax investigations, Employment Disputes, for example, would not be covered unless you have a specialist Commercial Legal Cover for these types of situation.

Product Liability Insurance

If you make up or simply supply, test, modify, demonstrate any of your own or other people's products or remedies (such as medical aids, adaptations, ointments, creams, aromatherapy or herbal prescriptions), you should ensure your policy provides product liability cover. This covers any legal liability following injury caused to anyone *as a result of a defect* in the product or remedy. Any incorrect advice causing injury or harm emerging from the advice is covered under the Malpractice or Treatment Risk Policy. Under the EEC directive, you are held liable even if you innocently supplied the defective product. Some policies only cover you whilst supplying your own patients. If you retail these goods to people who are not your patients, you may need to arrange a separate policy.

PREPARING FOR THE FUTURE

Personal Financial Planning, Personal pension plans. Life Assurance ,Term Assurance, Savings, Mortgages, Investment Options, Health, Accident and Disability insurance.

Introduction

It is important to develop a strategy with your Financial Planning, and to break down your priorities into Short, Medium and Long Term Goals. Ideally, what you owe should be less than what you own, and what you spend should be lower than what you save!

You should realise that there is nothing to be afraid of in dealing with these matters, but should prudently keep some money in hand for any short term emergencies. Try to avoid stocks and shares, unless you have expertise and a substantial amount of money to invest. Collective or Pooled Investments, such as unit trusts, are more preferable for medium term (4 –6 years) investment, as the risks are more spread. Although past history shows that equities outperform all other forms of investment, these are not guaranteed, and the nature of the beast is that it is cyclical, and goes up and down in waves. It depends when you buy and when you sell as to how much your capital has grown. Try not to spend all you earn, but keep money in reserve, so that your business has a capital base, and you do not have to borrow more than you have to when required, as this is inevitably expensive over the longer term.

Here are some of the main types of Financial Services Products that are available:-

Pensions

Those who are unable to join a company pension scheme, or who are self-employed, need to consider a personal pension plan. The Inland Revenue allows generous contributions limits and full tax relief is given to the individual on premiums paid. For those who are employed, contributions are paid net of basic rate tax relief. Higher rate relief is obtained through the individual's coding, whilst the self-employed are treated similarly now. The Inland Revenue also allows financial institutions to invest pension funds largely free of income and Capital Gains Tax, which improves the investment return available.- recent changes in taxation mean that some of the returns are now taxed on the growth within these pension funds.

Although the majority of a personal pension fund has to be converted into a pension when retirement age is reached, up to 25% can be taken as tax free cash for personal use. In the event of death before retirement, the full value of the policy may be used for the benefit of the next of kin.

Because of the facility to have a tax free lump sum at retirement, a personal pension may be used in connection with an 'interest-only' mortgage, with the loan being paid off out of the tax free lump sum at retirement. It is also sometimes possible to take out personal or business loans using the tax free lump sum as security for the lender. I would not recommend this as a strategy- pensions are for lifestyle in retirement, and there is an element of risk in this strategy.

Funds can either be invested in With Profits or Unit Linked Funds, amongst which there are Ethical & Green Investments, some of which are producing above average returns and are proving more and more popular, with billions of pounds under management.

Pensions are a complex issue and are affected by taxation, social security and state pension legislation. Financial advice is imperative and, for the reasons given above, it is advisable to contact an independent financial adviser for pension planning purposes. You can always shop around before committing yourself to what is an important decision and you are under no obligation to take the advice offered. Useful also are performance results for pension funds published in Which? and in the financial pages of broadsheet newspapers. The weekend editions are often best for this type of reporting. It is essential to look at performance levels over longer periods. You want to commit yourself to a long term dependable source for the main pension. There are providers who consistently perform well across a range of funds, with different risk/reward scenarios.

Life Assurance

Life Assurance comes in three main categories:

Term Assurance - which provides a fixed sum payable on death within a set period. If he/she survives the term, then the policy ceases. This is the cheapest form of cover and may be used on a decreasing basis (particularly to cover the outstanding loan under a 'repayment' mortgage) whilst options to convert into another type of life assurance to increase or renew the policy can be built in at a small extra cost.

Savings Policies with Life cover - the much maligned endowment policy is still frequently used for the repayment of a mortgage. The endowment policy which may be supplemented by a term assurance policy – is intended to repay the mortgage at maturity, whilst the individual pays only the premium to the insurance company and the interest to the lender. Endowment policies are usually taken out on a with-profits basis, where the basic sum assured is increased by annual bonuses and, hopefully, a terminal bonus just prior to maturity. For the past 30 years, unit-linking has become more popular with each monthly premium securing units in the funds of the insurance company according to current unit prices. At maturity, the units within the policy are cashed in at the prevailing bid or selling price. Unit-linked policies are more volatile than with-profit policies because unit prices can go down as well as up. However, they are more actively managed and, in favorable markets, will often outperform with-profit policies.

Despite the adverse publicity in recent years, which stems from the poor performance of some Insurers and their funds, with high charges etc., there were situations where they had their positive points!. There are situations where you may move home after 3 – 5 years. In such a situation, you will have paid more to the lending source in a capital and interest mortgage, but have very little to show for it by way of reduction in capital when you move, and then you will have to start again with a new full term mortgage. With the interest only method of repayment of mortgage, the extra money goes into your own investment pot which you take with you when you move, and the capital from the policy can shorten the length of the mortgage. These days, Mortgage Endowments have lower charges, and are quoted on more realistic growth assumptions, rather than the over optimistic assumptions of previous years. Performance in the right choice of investment funds is also crucial to a happy result. These policies have all but died in recent years! Friendly Societies still offer useful cover in this format, but the amount you can take out tax free for childrens' or adult policies is limited

Whole of Life Assurance – this is a policy that pays a sum assured to the beneficiaries of a deceased policyholder upon death at any age. The policy may be written on a with-profits or unit-linked basis. Modern whole of life policies include a number of other options, e.g. to increase the sum assured, to have premiums waived during periods of illness etc. Many people use whole of life policies for inheritance tax.

It is important to make a will, consider putting life policies etc into a trust, to keep the proceeds out of the estate, and of course to consider inheritance tax implications, by adopting some of the legitimate reduction/avoidance strategies available.

Mortgages

There are a bewildering array of mortgages on the market. As far as the practitioner is concerned, you may want to make one or more rooms in your next home into a therapy room or a small centre. Many lenders will not countenance this, or may require an additional interest rate as this constitutes a part Commercial Loan. There are a few however, who may not do this. A Mortgage Broker or Independent Financial Advisor will be able to help here.

A repayment or capital & interest mortgage gradually reduces the capital over a period of time, with the main reductions starting around years 8- 10 in a 25 year mortgage. Life or other covers are required by the lender usually. Interest only mortgages require a capital producing vehicle such as a Pension, Unit Trust (or PEP) or Endowment.

There are Variable rate Mortgages, Capped (which fix a maximum rate, but no minimum) Fixed Rate

Mortgages, (which freeze the rate for a period of time) Discounted Rate Mortgages (which discount the variable rate for a period of time, Flexible Mortgages (which allow overpayment and subsequent withdrawal if need arises later, and are a very useful financial **planning** tool. Generally speaking the better the deal seems on the surface with cashbacks, and other incentives, the longer may be the penalty period if you want to get out of the mortgage later on !

Investment

Under this heading, the following may be considered:

- a) Insurance Company Lump Sum Bonds – With Profit & Unit Linked Funds
- b) Unit Trust Investments- There is a very large number of these available
- c) Personal Equity Plans (PEP) – Ended- April 99
- d) National Savings – Security of capital, but unspectacular growth
- e) Building Society - including Tax Exempt Special Savings Account (TESSA)- Security of capital, but unspectacular growth
- f) Individual Savings Accounts (ISA) from April 1999- A mixture of security & speculation
- g) Traded Endowment Policies – security of capital with possibility of good capital growth
- h) Gilts – Security of Capital with capital growth varying from unspectacular to good, depending on various circumstances.

Investment Bonds, Unit Trusts and PEPs are normally invested in the units of the underlying funds of a financial institution. Unit Trust companies may achieve higher returns than insurance companies but a life assurance company bond can provide income based on a percentage of the original investment with no tax charged at the time of withdrawal. PEPs had a maximum investment of £6,000 per annum plus a Single Company or Corporate Bond PEP for up to £3000. The proceeds of a PEP, by partial or full encashment, were payable tax free. These ended 5.4.99 and were replaced by ISA' s, which was yet another Government invention designed at encouraging more people to save. They combine savings accounts, and unit trusts are ultimately limited to £7000 per annum.

Many people are unaware of the broad scope of National Savings products available for those who wish to save to provide a tax free or tax abated return. The TESSA, which was available from banks or building societies, enabled up to £9,000 to be invested over a 5-year period, after which, provided there were no withdrawals during that period, all interest payable was free of tax.

Traded endowments are policies sold by people who have had them for some years, and want to raise capital. There are specialist firms who offer these, and can be a useful addition to a balanced portfolio of investments.

Health Insurance

1) **Long Term Disability Insurance** – often known as 'permanent health insurance', which provides a regular income in the event of long term disability due to illness or injury. Premiums are paid to insurance companies who guarantee to pay income to an employed or self-employed person whose disability lasts beyond a specified deferred period. Up to 60% of income can be insured in this way. Once the waiting period is completed (typically one to three months), and provided medical evidence proves that a person cannot work, the insurance company will pay the employed or self-employed person an income as provided under the policy until such time as the individual returns to work, dies or reaches the specified termination age (usually their retirement age) in the policy. Should the disabled person return to work part time or in a lesser, lower paid capacity, arrangements can usually be made for the benefit to be proportionately reduced but still payable until such time as full recovery and total return to work is achieved. The income is free of tax, but a claim is subject to proof of income prior to the claim, and a maximum of 60% of gross income is the norm these days. If the business is new or hasn't made a profit, then claims could be refused as there has technically been no loss of earnings. If your income goes down, you need to reduce cover as they will only pay based on your previous 12 months results. If you are employed, the situation is simpler!

Policies can be inflation linked both for annual benefit when not claiming to take account of inflation, and inflation –linked when claiming, so that the disability income does not suffer in a long term claim. Some policies give an investment element, such as Friendly Societies. Policies can also be taken out to provide for business expenses and the provision of a locum, in order to protect your practice whilst you are off work.

2) **Personal Accident & Illness Insurance** - this covers both temporary total and temporary partial disablement, up to 2 years benefit (rather than to retirement age). In addition, lump sums for loss of use of limbs, faculties, joints etc are covered for lump sum compensation in the event of an accident. Premiums are generally cheaper, but cover is annually renewable, rather than permanent, and insurers can revise their terms and exclude any serious claims made from future payments. Some policies only pay out at the end of the disablement period, or at the insurers' discretion. Others are more generous in their claims handling and pay at the end of the month. The premiums are not age related (Permanent Health premiums are. Insurers are also more flexible in their underwriting:- if you have had a previous claims history, many Permanent Health Insurers will decline to insure you, whereas PA & Sickness Insurers may simply just exclude the pre-existing conditions.

3) **Private Medical Insurance** – as the National Health Service frequently fails to provide a speedy service for non-urgent conditions, some people feel a need for private medical insurance. These cover costs of hospitalisation, operations, medicines, fees and outpatient costs etc. Insurance companies in an effort to provide sensible and reasonably priced plans for the general public offer policies with an 'excess', i.e. the policyholder agrees to pay the first £50 or £100 or other amount of any claim, which can significantly reduce the premiums which will be payable. Furthermore, many modern plans provide private medical insurance only if the waiting period for National Health treatment exceeds six weeks. There are policies available which offer cover for osteopathy, chiropractic, homoeopathy, acupuncture etc. but some policies only cover Complementary Medicine upon referral by a GP or a specialist. Practitioners should shop around for the best option if they wish to take private medical insurance.

4) **Critical Illness Cover** – if a member of a family is stricken with a life-threatening condition, not only is the ability of that person to earn their living in jeopardy but their whole lifestyle may have to be drastically altered, which may be costly. Critical illness insurance can provide the necessary funds to enable that adjustment to be made more easily. There are a wide range of Illnesses and types of Permanent Disablement situations that are covered such as Cancer, Heart Conditions, MS etc and these days, many people can go on to live many years, or even go into remission, so this cover can be especially relevant if you are single and have no dependants, and is more appropriate than the traditionally vaunted Life Cover.

Where do you go for Advice?

The advice and guidance that you receive has to be paid for ! Advisors are regulated by Law, and are strictly controlled. They have to study and pass examinations before they can practice, as well as having years of experience behind them. The process involves taking a Financial « Case History » , taking into account your needs and goals, and attitude to risk, which is then condensed into a plan of action for you.

Since the passing of the Financial Services Act 1986 on the 29th April 1988, the terms 'independent financial advice' and 'independent financial adviser' have far more meaning than they ever had before. Many sources of financial advice exist, e.g. banks, building societies, insurance companies etc., who offer their own life assurance, pension and investment products to the general public. There are other advisers who, although not employed by a large institution, are nevertheless 'tied' to one and sell their products only.

Although those who represent one company are regulated under the Act and frequently offer a professional service, they are unable to give an investor access to the whole marketplace and, if they are unable to meet a client's requirements from their own portfolio of contracts, they are legally obliged to recommend that their client contacts an independent financial adviser.

The independent financial adviser, or IFA, is able to consider a client's personal circumstances and needs. The advice given must be suitable for that client in order to meet the client's wishes and aspirations. This is known as 'best or most suitable advice' in terms of the Financial Services Act 1986. Be wary, however, and like any other source of advice, do your best to check out the experience and credentials of this person.

Independent financial advisers are frequently remunerated by commission paid by a product provider for the introduction of business. Full details of the commission payable must be disclosed at the point of sale for pension, life assurance and investment products. If the adviser needs to recommend a course of action or a product for which no commission is payable, then a fee may be charged but the basis of remuneration should be agreed beforehand between the adviser and the client.

Of course, if you are fully conversant with financial matters, it is possible to go direct to the financial institution of your choice and buy a policy direct. You can then pay in lump sums as and when you decide and, in some cases, save on commission. But you have to be well informed, confident that you are making the right choice in a large and complicated market and able to muster the lump sum on a regular annual basis. For the majority, it is easier and more reliable to take professional advice and pay in each month.

I sincerely hope that the above gives you a secure grounding in the basics of Insurance and Financial Services, please contact me if anything is not clear or you require further information.

DAVID BALEN CERT PFS

db@balen.co.uk

01684 581875