

What is continuous cover?

Where a party is insured with the same insurer without interruption for successive periods, continuous cover clauses allow the incumbent insurer to accept notifications of a 'circumstance' under a current policy when they were known to the Insured before that policy commenced and ought to have been notified under an earlier policy with that insurer. Claims arising from the 'circumstance' can be covered by the insurer under the current policy, subject to the policy terms and any prejudice due to any delay in notification. This sometimes results in the terms and conditions of the prior policy applying.

Why do I need continuous cover?

The practical effect of continuous cover is that the clause allows insurers to forgive an Insured's breach of the duty of disclosure upon commencement of the new policy (subject to issues of prejudice) or to notify the insurer under an earlier policy. It rewards loyalty and removes debate over whether matters known to an Insured really were a 'circumstance' at the time, or nothing more than in the ordinary course of business.

What is a circumstance?

Subject to any policy terms, a 'circumstance' is a shorthand reference to a 'circumstance that might give rise to a claim against the Insured'. What constitutes a circumstances is a matter of some debate, but the test is generally whether that matter known to the Insured would immediately suggest to a reasonable person that the bringing of a claim against the Insured in respect of those matters was a 'definite risk' or a 'real possibility' or 'on the cards'.

What happens when I move from an insurer offering me continuous cover?

If an insured breaks a continuous period of insurance by changing carriers, the new policy may not respond to claims first made and notified in that policy period where the claim arises out of a circumstance that could or should have been notified in a prior policy (where a different insurer was on risk). It is common for policies to have a Known Circumstances Exclusion for this purpose. Further, given common policy terms, there may be no ability to 'back notify' to the earlier policy, possibly leaving an Insured falling between two non-responding policies.

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You should seek specialist legal advice for your particular circumstances. We accept no liability for any losses incurred if you rely solely on this document.

