

Why do subcontractors need Public Liability insurance?

Do subbies need insurance if a site is covered? Let's take a look in detail.

The simple fact is that builders operate their own independent business and as such, take out their own insurance. Likewise, subcontractors who are operating their own business should also take out their own public liability insurance policy.

Public liability basics

To examine the issues in more detail, let's consider the basics of public liability insurance.

Public liability insurance provides protection for amounts the insured (the parties stated in the policy) may become legally liable to pay for compensation (damages) in respect of third party (other persons) personal injury or property damage, as a result of an occurrence in connection with the business of the insured.



The crucial point is that public liability insurance only protects the insured parties. These insured parties are normally defined in a policy as the business nominated, including its directors, partners and employees, whilst acting on behalf of that business.

So the reality is, unless a specific provision is made in the builder's policy, as a subcontractor, you are not covered by the builder's policy.

To avoid any misunderstandings in this regard, you can review the insurance clauses under any contract of engagement to ascertain exactly who has what insurance obligations. However, in doing so, you should keep in mind that builders are rarely responsible for providing public liability insurance for their subcontractors.

Even if you are covered by the builder's policy, it is common in subcontract agreements for the builder to expect that the subcontractor is liable for any damage or injury that they are directly at fault for.

Why do the builder and subcontractor both need insurance?

On any building site, there can be a multitude of businesses in operation at any given time. Each business should carry their own public liability insurance to cover claims against them, which may arise from the performance of their works.

Why do subcontractors need Public Liability insurance?

Subcontractors on a construction site often question the need to carry their own public liability insurance on the basis that the builder already has a public liability insurance policy.

Think of it as a row of shops in a shopping centre – each shop would carry its own public liability insurance. The same applies to contractors working side by side on a building site.

Does this mean a double up?

No. As each contractor can incur its own liabilities at law, each public liability policy (subject to the sum insured) would cover only the liability of that business eventuating from an insured occurrence. The extent of such liability could range from zero to 100%, depending on the circumstances of the incident giving rise to the claim and the course taken in any subsequent legal proceedings.

Here are some examples of possible outcomes:

- A painter causes overspray damage to cars parked near a construction site and no other contractor contributed to the cause. If a liability claim was made against the painter and the damage was 100% attributable to the painter, the painter's policy would cover 100% of the amount of damages.
- A plumber excavates a trench and leaves it open, without adequate barriers. Another person on site falls into the excavation and is injured. This could result in legal proceedings against the plumber for inadequate work practices, the builder for being in control of an unsafe workplace, or both.

If each contractor is insured, the plumber's insurer and/or the builder's insurer would defend any claim on behalf of their respective clients. Liability could be resolved at say 50/50 and each insurer would subsequently pay their amount. Such resolution could be the culmination of court proceedings, pre-trial agreement, contract, negotiation, mediation or other avenues.

However, if the plumber is not insured the amount of liability incurred and associated defence or other costs, would have to be met from the plumber's own funds.

When you consider that personal injury claims often run into the millions of dollars, it doesn't make sense for subcontractors to expose themselves to the risk of losing their business or all of their personal assets by not carrying proper insurance coverage.

Having your own policy gives you control

Construction sites can be hazardous places where, regrettably, serious accidents can and do occur. Subcontractors cannot afford to get their public liability insurance wrong and by carrying your own policy, you are the one that is in control.

We can assist you in ensuring you have the right cover in place at a competitive price.

For more information contact MBIB Ph: 1800 150 888