

Subcontractors – The Importance of Checking Insurance

Bona Fide Subcontractors are increasingly used by many businesses to provide specialist services to customers and to deliver services over a wider geographical area.

Businesses will operate various systems for assessing and monitoring Subcontractors, and one key element to this process is checking the adequacy of their Insurance cover.

A specific Insurance Condition requiring you to maintain a system of checking Bona Fide Subcontractor Insurances is often precedent to your insurers responding. If the Condition has not been met this could, in some cases, result in Insurers refusing to provide an Indemnity in the event of a claim.

It is therefore essential to ensure there is a suitable system in place for checking Insurances. This does not need to be complicated but should identify key information prior to the Subcontractor commencing work with an annual review at the time of the Subcontractor's Insurance renewal to ensure adequate cover on a continuing basis. A record of the check must be kept.

Darwin Clayton can help. We have simple Insurance Questionnaires for Employers and Public/Products Liability as well as for Professional Indemnity and Contract Works Insurances, that can be completed by Subcontractor's Insurers / Insurance Brokers. Using these is not compulsory but they are useful tools and can be adapted to specific requirements. Alternatively, a copy of the Policy Schedule may be provided but please note that a copy of the Employers' Liability Certificate is not sufficient as this does not provide any evidence of Public Liability cover. A "To Whom It May Concern" letter is also useful; however, this will not provide proof that the activity you have asked them to undertake is covered specifically.

What Do You Need to Check?

The Bona Fide Subcontractor Insurance Checking Conditions in Insurance Policies may vary but typically these require you to obtain and maintain evidence that they have Policies in place providing Indemnity for Employers, Public and Products Liability and also Professional Indemnity where professional services are subcontracted:

- 1. With a minimum Limit of Indemnity:**
Employers Liability – to the minimum legal requirement, currently £5,000,000.
Public, Products & Professional Liability - this can vary but typically to match the level of cover you have in place.
We would always recommend that Subcontractors carry the same limit as your business and to comply with Contract Terms and Conditions.
- 2. Providing cover for the work to be undertaken** – ensure that the occupation noted on the Policy is adequate for the subcontracted work.
- 3. Effective for the duration of the contract** – if the work is for a specific period this may extend beyond the expiry of the Insurance.
- 4. Provides an indemnity to Principals Clause.**

You will be required to provide the evidence of insurance details with the Insurer Name and Policy Number in the event of a claim. This will enable your Insurers to redirect a claim to the Subcontractor's Insurers or seek recovery for their outlay where appropriate.

Other elements of the cover to identify where relevant to the work could include:

- Any height restriction?
- Any hot work restriction or conditions to be met?
- Cover for damage to property being worked upon / treatment risks?
- For security work, does the policy provide Inefficacy cover to the same limit as Public Liability?

Darwin Clayton can help here too by reviewing your Bona Fide Subcontractor Insurance details and providing advice/guidance on these key areas; giving you peace of mind. **This is a free service available to our customers.**

Other Information to Obtain When Assessing Your Subcontractors.

A formal approval process is the best way of assessing whether a Subcontractor can do the job you need them to do.

A specification for the work will help define the competencies you require of potential contractors which can include:

- References or examples of previous work – these can be followed up and validated.
- Health & Safety policies and procedures – specific Risk Assessments and Method Statements for specialist work to be undertaken.
- Industry specific Qualifications and Certifications as well as wider quality Accreditations.
- Evidence of specialist training and certification where relevant to the work being undertaken.
- Proof of financial stability – giving confidence that a contractor will be able to deliver the contract over a period.
- Check the Subcontractor's terms of business to ensure they do not unreasonably limit their liability.

Wherever possible working within an approved Subcontractor framework will enable your business to:

1. Formalise a relationship.
2. Monitor arrangements.
3. Resolve problems.
4. Facilitate continuous improvement.
5. Improve cash-flow

If you would like further advice on Subcontractor Insurances please do not hesitate to contact your usual Darwin Clayton Representative.

For other useful information and links please visit our website at www.darwinclayton.co.uk