

## Sub-Contractor's Insurance Guidance

### How can BFSC or LOSC status be determined?

If your contractor is an employee/labour only sub-contractor, then they will need to be covered under your Employers' and Public Liability policy. We will need to be made aware of the category of work and you will need to ensure they are included in your estimates of wage roll and turnover.

Whilst it is difficult to provide an accurate definition, it is important to try and correctly determine the status of sub-contractors to ensure that the cover provided by your policy is adequate.

As a general guide as to whether a worker is a LOSC or BFSC; even if the answer is "Yes" to most of the questions in the BFSC column below, it is our experience that, in the event of a claim, the courts may consider that your sub-contractors were your "employees". You must, therefore, give consideration to insuring them as such.

BFSC	LOSC
Do they agree to do a job for a fixed price regardless of how long the job may take?	Are they paid by the hour, week, or month?
Do they have a contract of service as opposed to a contract of employment?	Can they receive overtime pay or bonus payment?
Within an overall deadline, are they able to decide what work to do, how and when to do the work and where to provide the services?	Do they only supply their own small hand tools?
Do they regularly work for a number of different people other than the principal?	Do they always have to do the work themselves?
Do they have to correct unsatisfactory work in their own time and at their own expense?	Can the principal contractor tell them at any time what to do, where to carry out the work or when and how to do it?
Do they hold their own Public Liability insurance in their own name?	Can they work a set amount of hours?
Do they pay the cost of all materials or supplies required for the work without being reimbursed? (Excluding minor items and consumables).	Can the principal contractor move them from task to task?
Can they hire someone to do the work or engage helpers at their own expense?	Are they paid by the hour, week, or month?
Do they risk their own money, e.g. if they bid for a job and the bid is too low they have to bear the additional cost themselves?	Can they receive overtime pay or bonus payment?
Do they provide or hire in the main items of equipment they need to do their job, not just the small tools that many employees provide for themselves?	

If your policy provides cover for bona fide sub-contractors on a contingent basis, it is up to you to ensure that they carry satisfactory and adequate insurances and that their policy will include a business description to cover the work they are doing for you. Their policies must have an adequate limit of indemnity and contain an indemnity to principals' clause.

You must keep a record to show that their insurances have been checked and a diary system to identify when they are due for renewal.

We have sub-contractor liability insurance questionnaire templates available to use:

- [Employers' Liability, Public Liability, Contractors All Risks and Professional Indemnity](#)
- [Security sector specific questionnaire](#)

Darwin Clayton can assist you in this exercise and please do not hesitate to contact us for further advice.