



Making Claims Clear Employee or Subcontractor?

As a main contractor, you could be held responsible for damage or injury caused by your subcontractors if they are not adequately insured or if they breach the terms of their insurance. This situation could leave you with the costs of a claim.

Who is an Employee?

An employee is anyone working entirely under your control and supervision, and can include 'subcontractors', particularly those who are supplying only their labour. Claims involving labour-only subcontractors will be covered by your insurance.

Who is a 'Bona Fide' Subcontractor?

A bona fide subcontractor is an individual or business that you hire to work independently, without supervision, and who uses their own personnel, tools, and materials.

The Subcontractors Clause

To avoid bearing the costs of claims that should be addressed by your subcontractors, you must comply with the subcontractors condition in your insurance policy. This condition requires you to verify that your subcontractors have the appropriate insurance for the work you have hired them to perform.

How could a Subcontractor's insurance fail to cover them?

A subcontractor's insurance might fail to cover them if:

- They are performing a type of work that they have not disclosed to their insurer.
- The period of insurance is too short.
- Their policy excludes specific high-risk environments.
- Their coverage limits are too low.
- The policy has lapsed.
- Their policy contains exclusions or limitations, such as excluding certain activities (e.g., working on commercial premises or at certain depths).
- They breach their policy conditions, such as working at heights or depths not permitted by their insurance, or failing to follow safe working methods, such as hot work conditions.



When to check the Subcontractor's insurance:

Check before they start work. Obtain confirmation from the subcontractor that they have insurance covering the work they are performing for the appropriate amounts and for the entire duration of their involvement in the project. Also, verify that:

- They have a valid Employers Liability Insurance Certificate if they employ staff.
- They have Public Liability insurance for the same period as your own insurance.
- Their insurance covers the type of work they are undertaking in connection with the project.
- The work they are performing is not excluded — policies may not cover work outside the subcontractor's business description or high-risk work such as excavation and work at heights.

Record the details of these checks and keep copies of relevant documents, as we may request them if you make a claim.



Things to look out for:

- **Check their Business description:** If the subcontractor is described as a builder, they may not be covered for specialized roofing or demolition work.
- **General Market Exclusions:** There may be a general exclusion for work in high-risk environments such as power stations, chemical works, railways, or airside at an airport. If this is the case, check whether the subcontractor has obtained specialised coverage for these risks.
- **Hazardous Work Exclusions:** Policies often contain clauses excluding hazardous work such as piling, demolition, or tunnelling. If so, verify if the subcontractor has added specialised coverage for these risks.
- **Hot Work Conditions:** Subcontractors performing hot work, such as welding and soldering, must adhere to the detailed safe working requirements in their insurance policy. As the main contractor, you should ensure they comply and check that they meet your own insurance conditions.
- **Underground Services Conditions:** Subcontractors working underground must follow the detailed safe working requirements in their insurance policy. Work below certain depths may be excluded and coverage may only extend to physical repairs of damage, not consequential losses resulting from the damage.
- **Height Limitation:** The contractor's insurance may not cover work above a certain height or number of storeys in a building.
- **Excess:** Some hazardous trades may carry significant excess amounts, making the subcontractor financially responsible for a large portion of the claim.



What do I need to do?

You need to take reasonable steps to ensure that the subcontractor has the right insurance in place for the duration of their job.

We may ask you to provide a copy of their insurance policy or other written evidence to confirm that the appropriate insurance was in place. If you cannot demonstrate that you took these simple steps, you might find that you are not covered if you make a claim.

What happens if I can't provide all the documentation?

We consider each claim on its own merit. We understand that life can be fast paced, with last-minute requests and emergency work required. However, as a minimum, we would expect you to obtain verbal confirmation that the subcontractor has the appropriate insurance and to get written confirmation as soon as practicable.



Get in touch

This document should be considered in conjunction with our **Making Claims Clear - Employer's Liability or Public Liability and Declaring Your Employees** guide. If you have any questions about either document, please get in touch with your usual AXA representative or your broker.

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