

Public Liability Issues for the Self-employed

What is public liability?

Where a member of the public or a person not employed by you suffers injury caused by your work activities or the carelessness of one of your employees, they may be able to sue you for compensation. If you or your employees cause damage to property in the course of your work activities, again the owner may sue you for compensation

Public liability insurance can cover you for such claims.

The role of insurance

There is no legal requirement to have public liability insurance. However without such cover, one claim could put you out of business. You may also find that, depending on the type of work you do, some clients insist that you have public liability insurance as a term of your contract.

You can obtain public liability insurance via your insurance broker. It is very important that you discuss fully with your broker all the risks arising from your work activities so that a policy covering the main issues can be obtained. For example if your business involves maintenance or modification to your clients' premises you will need cover for any damage caused, which may not be a standard part of all public liability policies.

It is still important to try to prevent public liability claims even if you have insurance. Accidents to members of the public, arising out of work activities can also result in prosecutions and you cannot insure against fines imposed by the criminal courts. Furthermore, such accidents can result in damage to your reputation and loss of customers, with long-term financial consequences for your business.

Safeguarding your business against claims

Slips and Trips:

Slips and trips are the most common causes of injury to members of the public. Slips and trips can result in serious injuries, which may lead to large compensation claims.

If you occupy business premises which members of the public or other people visit, you need to take steps to minimise the risk of slips and trips. Some simple issues to consider are:

- Is their access to your premises well lit and in good condition?
- Do access routes become slippery at particular times of the year? E.g. fallen leaves in autumn, or ice or snow in winter.
- Are interior floor surfaces in good condition?
- Are tripping hazards such as trailing cables routed away from walkways or covered in some way?
- Is the floor surface inherently slippery or likely to become so if wet, or polished?

If you work on other people's premises it is important that you avoid creating tripping hazards for their staff or visitors. The main precautions are:



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- Keep your work area tidy
- Avoid activities which will create trips hazards or slippery floors at busy times
- Use of signs or barriers to prevent other people approaching hazards.

See also Hardfacts 1006 Control of Contractors, for further guidance on working on other people's premises.

Assessing Risks to the public:

Other precautions may be appropriate depending on the nature of the task you are carrying out. The exact precautions you will need to take will be evident from a risk assessment.

For further guidance on carrying out risk assessments refer to Hardfacts 5010 Conducting Risk Assessments. There is also free guidance available from HSE Books on the risks associated with many types of work activity. You can find details on the HSE website www.hse.gov.uk/pubns

Employing staff - your responsibilities for their actions

Civil Liability:

You can be legally liable for injury or damage that your employees cause to others whilst they are carrying out work activities on your behalf. This is called vicarious liability.

The general rule is that you are responsible for the conduct of others which you have authorised or ratified; and also conduct which though neither authorised nor ratified:

- Takes place in the course of a business which you conduct, and
- Where there is a close connection between the conduct and what the wrongdoer was employed to do.

Vicarious liability can also arise where you have a self-employed person carrying out work on your behalf where you control how the task is done.

Any person injured by one of your employees, or a self-employed person working for you, can sue you for compensation. You may still be legally liable, even where the employee was working in a way that you have specifically forbidden.

Criminal liability:

As well as being sued for compensation, you could also be prosecuted if someone working on your behalf creates a risk to himself or herself or anyone else, or fails to comply with the legal requirements relating to that activity.

It is very important that you clearly set out what safe working methods you expect from your employees or anyone undertaking work on your behalf, and that you monitor work activities to ensure that their actions do not endanger anyone else.



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Key action steps

- Undertake risk assessments of your work activities. Identify who could be harmed and how, and identify the measures you need to take to minimise any risks.
- If you have employees, remember you could be liable for their actions at work - ensure that they are familiar with the precautions needed to safeguard themselves and other people, and make sure that they follow any safety rules you lay down.
- Ensure that you minimise any risks arising from your premises.
- When working on other people's premises, ensure that your work area is kept tidy and you minimise any risks to other people on the premises.

References

- Five steps to risk assessment. INDG 163. HSE Books (Free Of Charge) -Reprinted 7/03
- The Management of Health & Safety at Work Regulations 1999



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