



Explanation of terms and conditions

Employee or Subcontractor?

Making claims clear



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At AXA, we want to make dealing with us simple and trouble free, so you can get back on your feet as soon as possible after a loss.

We know the last thing you need when you make a claim is to find any surprises in your policy conditions or get tied up in legal language.

We've put together this guide for businesses who employ subcontractors to help you check that they have the right insurance for the work they do, and make sure you don't become liable for any damage they cause.



Employee or Subcontractor?

As a main contractor, you could be held responsible for damage or injury caused by your subcontractors if they are not properly insured or breach the terms of their insurance. This could mean you are left to pick up the costs of a claim.

Who is an employee?

An employee is anyone working under your control and supervision. This will include “subcontractors” who are supplying only their labour. Claims involving labour only subcontractors will be picked up by your insurance.

Who is a subcontractor?

A subcontractor is an individual or business that you have hired, but who act independently without supervision using their own people, tools and materials. For insurance purposes, anyone working entirely under your control and supervision, providing labour only, is defined as an employee.

The Subcontractors clause

To avoid you having to pick up claims which should be dealt with by your subcontractors, you must comply with the subcontractors condition in your insurance policy. This requires you to check that your subcontractors have the right insurance for the work you’ve hired them to do.



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



This could happen if:

- They're doing a type of work that they haven't disclosed to their insurer.
- The period of insurance is too short.
- Their policy excludes specific high risk environments.
- Their cover limits are too low.
- The policy has lapsed.
- Their policy's have exclusions or limitations, for example excluding certain activities, such as working on commercial premises or below certain depths.
- They breach their policy conditions – for example, working at heights or depths not allowed by their insurance, or failing to follow safe working methods such as hot work conditions (page 6).



When to check the subcontractors insurance



Check before they start work. Get confirmation from the subcontractor that they have insurance that covers the work they're doing for the right amounts and the entire period of their involvement in the works.

Also check that:

- They have a valid Employers Liability Insurance Certificate if they use employees.
- They have public liability insurance for the same period as your own insurance.
- Their insurance covers them for the type of work they are carrying out in connection with the works
- The work they're doing isn't excluded – policies may not cover work that is outside the subcontractor's business description (see next page) or high risk work such as excavation and work at height.

Record details of these checks and keep copies of relevant documents as we might ask for them when you make a claim.



Things to look out for:

What's their business description?

If the subcontractor is described as a builder, they may not be covered for specialist roofing or demolition work.

General market exclusions

There may be a general exclusion of work in high-risk environments such as power stations, chemical works, on railways or airside at an airport. If so, check whether the subcontractor has added specialist cover for these risks.

Hazardous work exclusions

Policies often have a clause excluding hazardous work such as piling, demolition or tunnelling. If so, check if the subcontractor has added specialist cover for these risks.

Hot work conditions

Any subcontractor doing hot works, such as welding and soldering, must follow the detailed safe working requirements in their insurance policy. As the main contractor you should make sure

that they comply and also check that they comply with your own insurance conditions.

Underground services conditions

Any subcontractor working underground must follow the detailed safe working requirements in their insurance policy. Work below a depth of 1.5 or 3 metres may be excluded. Also the cover may only cover physical repairs of damage but not consequential loss resulting from the damage.

Height limitation

The contractor's insurance may not cover work above a certain height or number of storeys if working in a building.

Excess

Some hazardous trades may carry big excess amounts making the sub-contractor financially responsible for a large part of the claim.



What do I need to do?



You need to take reasonable steps to make sure that the subcontractor had the right insurance in place for the duration of their job.

We might also ask you to supply a copy of their insurance policy or other written evidence to confirm the right insurance was in place. If you can't show that you took these simple steps, you might find that you are not covered when you come to 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 is often very fast paced with last minute requests and emergency work required. However, as a minimum, we would expect you to have got verbal confirmation that the subcontractor has the right insurance and to get written confirmation as soon as is practical.



What next?

If you have any questions about this document, please get in touch with your usual AXA contact or your insurance broker.





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