

Public liability insurance

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A brief introduction to public liability insurance.

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Overview

Everyone has a legal duty to behave in a reasonable manner towards others. Those who fail to do so will be legally obliged to pay compensation to anyone who is injured or whose property is damaged as a result of their actions. These liabilities may arise through the careless or negligent acts of business owners and their employees, due to defects in premises, or under certain Statutes (Acts of Parliament) which impose liabilities. For example, if you fail to maintain your premises properly and a visitor is injured they may make a claim against you. Compensation could include financial recompense for any expenses incurred, loss of earnings, possible loss of future earnings, pain and suffering, and perhaps other items.

Public Liability Insurance covers the cost of compensation to third parties for death, injury or damage to their property, which happens as a result of a firm's business activities. A 'third party' is anyone outside the company that the business has contact with - including, for example, people visiting the premises, watching activities that the business has organised and even passers-by.

Public liability insurance is not usually compulsory by law, except for a very limited number of businesses which are covered by specific legislation, such as riding schools. However, customers may require businesses to have public liability cover as a condition of awarding a contract and will ask for confirmation in writing that cover is in force.

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Typical cover provided

A public liability policy provides an indemnity to the insured for legal liability to third parties for damages in respect of accidental bodily injury, death, disease or illness, and for any loss of or damage to property, which happens in connection with the business insured under the policy and occurs during the period of insurance.

Legal liability can arise in many ways. The most common is due to the insured's negligence, but nuisance, trespass and liability under statute are also covered.

The injury or damage sustained must be accidental; cover is only intended to cover unexpected events. If the word accidental is not used when specifying the policy cover, there is usually an exclusion for injury or damage which results from a deliberate act or omission of the insured.

The injury or damage must have been caused in connection with the trade or business stated in the policy wording. However, it is usual to extend cover to include any ancillary activities of the insured; for example, first-aid facilities, canteens, private fire brigade and ambulance services and any private work carried out for any director, partner or employee of the company.

In addition, cover is included for:

- the claimant's costs and expenses associated with a claim
 - the insured's legal costs. Even if the business was not the cause of alleged injury or damage, the costs and expenses incurred in taking legal advice and defending an action in court can be substantial.
 - legal costs and expenses in defending prosecutions under relevant legislation (such as Health and Safety legislation, the Consumer Protection Act 1987 and the Food Safety Act 1990)

Other features of public liability cover are:

- cover is subject to a limit of indemnity. This is usually £2 million any one occurrence, although the insured may select a higher limit of indemnity if required
- financial losses flowing directly from accidents resulting in injury to persons or damage to their property are covered. For example, if a poorly maintained sign falls off a shop front, damaging a customer's car, the insured's public liability policy will cover the cost of repairs to the vehicle. If the customer has to hire another car whilst their own is being repaired, the insured's public liability policy will also cover the hire costs
 - cover is included for loss or damage to premises rented or hired by the insured

cover is included for legal liability for defects in premises that have previously been owned or occupied by the insured, as long as the insurance remains in force. This is needed because of the requirements of the Defective Premises Act 1972 which imposes liabilities for up to seven years after the disposal of property.

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Optional extensions

The main optional extension is the availability of a higher limit of indemnity if required.

Sometimes, such higher limits of indemnity are provided through excess layers where, for example, insurer A may provide cover up to £1,000,000 and then Insurer B for £4,000,000 in excess of £1,000,000.

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Key exclusions

Public liability policies contain a number of exclusions which define the cover provided, by excluding risks, many of which are covered by another type of policy. The key exclusions are:

- Injury to employees (as this is covered by an employers' liability policy)
- Property belonging to the insured (as this is covered by a material damage policy)
- Products liability (as this is covered by a products liability policy)
- Contractual liability (this can sometimes be deleted with the agreement of insurers in relation to specific contract wordings)
- Cost of rectifying defective work
- Professional negligence (as this is covered by a professional indemnity policy)
- Motor vehicles (as these is covered by a motor policy)
- Vessels and craft (as these is covered by a marine policy)
- Lifts, elevators and boilers (as these are covered by an engineering policy)
- Gradually occurring pollution
- War risks
- Radioactive contamination

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Rating factors

Public liability policies are usually rated on the turnover of the business and are adjustable in the same way as for employers' liability insurances. A flat premium may be used where the risk relates only to activities at the premises.

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Product providers

There are very few separate Public Liability policies issued. It is more common to issue combined liability policies which include employers', public and products liabilities within one policy document.

Most composite insurers, as well as a number of specialist insurers and Lloyd's syndicates, offer employers', public and products liability cover. Cover is often arranged through an insurance intermediary, although small businesses can purchase cover by telephone or on line as part of a commercial package policy.

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