

The Guide to Insurance for contractors

The challenges of the construction industry require contractors to look for the most adaptable insurance packages. This article is a brief guide to various options of insurance available for construction projects, from design to construction.

The risk is associated with every construction project and may vary from medium to significant. Insurance provides protection against risk for both the insured and the third party. It is required to consider all factors associated with the business or project to choose the most appropriate insurance policy. The proper choice will ensure that the cover will be sufficient in the case of the claim. Insurance is a very broad subject, and this article can be treated as an introduction.

The most common types of insurance available:

All risk insurance

It covers all risks typically associated with the construction project. It protects against physical damage to the works and site materials, unforeseen loss or damage to tools, owned or hired plant. It can be taken by the contractor or the client. Usually, it is in joint names. The project

contract specifies the requirements and who is responsible. The cover is usually provided for the construction period, but it can also include the defects liability period. The policy can be extended to include a range of additional covers such as public liability, business interruption, and equipment erection. It is sometimes referred to as 'Contract Works Insurance'.

Professional indemnity (PI) insurance

It insures against the liability arising from negligence such as breach of contractual responsibilities to execute the contract. It is required for all responsible for design and construction - architects, engineers, consultants and building contractors. The consequences of negligence on building projects can be very expensive to remedy, and insurance should provide certainty that the contractor will not be made bankrupt and should recompense to the client for the cost of making defects good. A professional indemnity policy is quite expensive with costs of premiums determined by the type of service.

Product liability insurance

It protects against liability for injury to people or damage to property, arising out of products supplied. Suppliers of equipment such as lifts, scaffolding or hired plant, may be required to maintain such insurance.

Public liability insurance

It covers liability arising from death or personal injury to third parties other than employees or for damage to third parties' property. Public liability insurance and employers' liability insurance are usually offered as one policy. It is important to note that the required level of insurance in a contract does not cap liability at that level.

Employer's liability insurance (it is the UK legal requirement)

Every business that employs the workforce is required by law to hold the Employer's liability insurance. It will help to pay compensation

if the employer is injured or ill because of the work. The Employer's Liability (Compulsory Insurance) Act 1969 states that all employers who employ workforce working in the UK have to have at least £5,000,000 employer's liability cover. It is available up to a limit of £50M.

Legal indemnity insurance

It protects the contractor against the additional costs arising while dealing with the legal matters, for instance, costs of complying with planning permissions, resolving the dispute, etc.

The following types of Bonds are available:

- Performance - Retention
- Advance Payment
- Duty Deferment/Customs
- Outsourcing
- Pension
- Restoration
- Road & Sewer
- Rural Payments Agency Guarantees
- Deferred Consideration

Latent defects insurance

It is a policy cover for new buildings. It protects the owner against the cost of remedying the structure of a building, due to a defect. It is the fact that faults and defects occur in construction projects and often are not detected until few years after completion.

Such cover usually has to be arranged in advance and last for ten years from the project completion date. Some policies also provide for the loss of rent, loss of profit or the cost of working from/ living in alternative premises. Collateral warranties are often used instead of latent defects insurance, or another way round.

Collateral warranties

A collateral warranty is a legal agreement that imposes an extended duty of care and larger liability on parties involved. It also provides for the duty of care to be extended to a third party that is not involved in the original contract. For instance, the existence of a collateral warranty enables the developer to create a contractual obligation between architect and occupier. Collateral warranties might be required by the nature of the contract to be obtained by the main contractor from sub-contractors. Moreover, collateral warranties allow a third party, for instance, a bank to ensure that the project is completed if the client becomes insolvent. JCT provides standard forms of collateral warranties.

Integrated project insurance (IPI)

It collectively insures all parties engaged in the project - architect, contractor, client, etc. It is an innovative insurance solution that replaces the professional indemnity insurance and collateral warranties. The cost of IPI is fixed at 2.5% of the project cost. The IPI policy comprises All Risks, Third Party Liability, Delay in Completion, Financial Loss cover, Defects cover.

What is JCT (Clause) 21.2.1 Insurance?

This is a cover against client's personal liability for damage to the property of the third party as a result of client's or contractors' negligence.

JCT 21.2.1. Insurance cover protects a client and contractor against expense, liability, loss, claim or legal costs which client may face due to injury or damage to any person or property. It may be caused by collapse, subsidence, vibration, weakening or removal of support or lowering of groundwater due to building works that were undertaken on the client's behalf. It is most common with risky works like those involving excavation, piling, demolition, underpinning, etc.

All contractors, architects, consulting engineers engaged in a building project should hold Public Liability Insurance to cover the risk of a claim being made against them for injury to a third party or damage to third party property arising from the negligence of the contractor or other party engaged during the project life. However, in the case when the negligence cannot be proven and the contractor cannot be made responsible, the Public Liability cover will not be efficient and as a consequence, the client could face substantial financial costs. JCT 21.2.1 Insurance ensures that client is secured in such scenario.

This clause is optional and in most cases will be requested to be put in place by the consulting surveyor or architect. The JCT contract may oblige the contractor to arrange a joint names JCT 21.2.1 insurance policy with the intention to protect the client, what means that the contractor will be responsible for paying the premium. *It can also be referred to as JCT 6.5.1.

To summarize, there is a legal requirement in the UK for every employer to hold the employer liability insurance. Moreover, every builder - a limited company, self-employed or employed, have to hold the adequate insurance policy to protect while providing services. It's important to check carefully the project contract documents to choose the sufficient insurance cover. The insurance broker can help to assess the risks and select the policy to cover main exposures and meet all contractual obligations.

