

Construction Liabilities – Getting it Right

Earlier this year, Vero Liability's Senior Underwriter Heather Bailey, gave a presentation to the Insurance Institute Conference in Auckland on behalf of VL. The topic was "The Christchurch Re-build - Construction Liability Insurance". Heather has 18 years experience in arranging and managing liability insurance programmes for major publicly funded infrastructure projects including motorways, bridges, viaducts, tunnels, water, power and gas reticulation and high-hazard deconstruction. The presentation was wide ranging, touching on many risk and insurance issues likely to arise in dealing with the construction industry now and in the future. It attracted appreciative response from an audience which included underwriters, brokers, adjusters, engineers and lawyers. You can access a transcript of the presentation by clicking [here](#).

The Canterbury reconstruction phase is underway and activity in the construction sector is anticipated to increase significantly in the near future. This will inevitably increase demand for construction related insurance products and advice.

Principal arranged insurance programmes are designed for major civil projects and they are unlikely to be appropriate for the majority of trades related construction activity. Routinely, as insurance professionals, we all deal with the insurance requirements of the construction trades where jobbing work, on which a majority of trades rely, rarely presents significant contractual or insurance issues. And, we all know that tradespeople rarely pay attention to the niceties of contracts and insurance - they are always too busy!

But where firms take on work which involves them in a contractual chain, complications can arise through failure to understand contractual conditions and obligations. This in turn can lead to a multitude of messy policy conflicts between principals, contractors and sub-contractors and their insurers when claims arise because covers in place are not properly aligned to contract requirements. The common cause of these problems is a failure to have on hand properly documented contractual arrangements which are clearly understood by all parties involved including brokers and underwriters.

VL's Public Liability Claims Manager, Christine Petersen is at the business end when trouble arises. In her experience problems can be mitigated if the following points are considered prior to insurance arrangements being finalised:

- Look at the contract conditions - main contracts and sub-contracts.
- Obtain a copy of the contract or sub-contract - look out for differing conditions between the two.
- Look at quotation documentation for terms and conditions attached. Also, terms and conditions on supplier invoices may alter or limit liability.
- Look for specific insurance provisions in all documents.
- Look for any special conditions which affect a contractor's liability.
- Does the contract require a Contract Works policy?
- Will this policy cover all contracting parties, ie principal, contractor and sub-contractors? If so, it makes life relatively easy for the contracting parties and their liability insurers by clarifying where claims for damage to the works fall. So ensure that the Contract Works policy is in place - ask for a certificate of insurance.

Other possible areas of "conflict" may arise where contracting parties have separate insurances with different policy conditions and exclusions. For example:

- Design/faulty workmanship exclusions;
- Sub limits for, say, underground services and the like;
- Different excess/deductibles.

There is no "magic wand" which can pre-empt or eliminate difficulties but a heightened awareness of issues and a careful approach to the arrangement of construction related insurance risks will go a long way to making everyone's life easier at claim time.

Your specialist [VL Underwriter](#) will be happy to discuss any aspects of this.