



Scaffold design: make sure you know who is legally responsible when there's a problem

In this increasingly litigious world, protecting your business from legal action can be a full-time occupation. In this series of articles, scaffold insurance specialist Amicus will explore some of the hidden pitfalls that you need to watch out for and provide some tips and advice in areas that scaffolding companies can take to protect themselves. Amicus director **Richard Evans** talks us through the first topic: scaffold design.



Scaffold design – are you responsible?

Most scaffolding is designed by professional designers, so why would you have any responsibility for any mistakes in the design of the scaffold. You just build it... don't you?

Well, as we all know, designs on paper that are handed down from the principal contractor or designer cannot always reflect the true situation on the ground and so minor

adjustments and modifications to drawings sometimes must be made to reflect localised ground conditions, or to bridge drainage pipes and such like that only become apparent when you are on-site.

But this is where you need to tread very carefully, because if you amend the drawings and they are not then re-submitted and re-approved by the principal (and, in some cases, new

drawings then obtained from the designer), you, the scaffolder, can become legally responsible for this new design.

In the event of a problem, you can be sure that everyone who has had any input to the design will potentially be 'in the frame' and if you have made an alteration that has not been signed off by the designer, then it will be you, and not the scaffolding designer, who can be held liable for this failure. This can even occur when the failure relates to an item that you did not specifically alter.

Even though you may end up proving that you were in no way negligent, the defence costs in contesting a claim against you could cripple your business. Your standard public liability policy will not cover you against issues raised by undertaking design work.

How to protect yourself

By simply understanding how a liability can incur, you will have gone a long way to managing your risk.

If you think that it could be argued that you have had some input into the design of the scaffolding, then you need to look into how to reduce your risk by transferring it back to the designer/principal. They will have insurance to cover themselves.

Make suggestions and improvements by all means, but ALWAYS obtain an updated set of drawings or a written variation from the designer or your principal.

If that is not possible, then you need to consider whether you should purchase professional indemnity insurance (PI) to cover you when undertaking design work.



You will probably have never considered covering PI and have relied on the fact that your firm does not provide plans and drawings as part of your standard range of services. However, as you can now see, you can unwittingly incur a liability, even when you have not charged for the service.

Although the instances that I describe may be unusual, the consequences may be devastating. So, understanding what you are exposing yourself to when you change or alter a scaffold drawing is so important. If it is something that you do need to do, you should look into obtaining some basic

PI insurance to protect yourself (it need not be particularly expensive but could end up saving you a small fortune).

Finally, a reminder to always check the insurances of anyone who is providing designs and plans for you. Any reputable scaffold designer will almost certainly have professional indemnity insurance to cover them in the event of an error or omission with their drawings. You may need to rely on this insurance if there is a problem, but if you have altered their plans then they may be able to argue that they are not responsible. Having your own PI policy "just in

case" may be worth looking into.

Next time, we shall be exploring fees for intervention (HSE) insurance and some common pitfalls that arise on liability policies sold to scaffolding companies.

Is there a topic you'd like us to discuss in this section? Or do you have an insurance query we can help with? Please get in touch with Richard Evans or Adam Scott.

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