Assessment 4: General Liability Risk

Could Your Business Be Held Responsible for Injury or Damage to Others?

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Every business has some potential to cause injury or damage to someone else.

A customer can slip and fall. An employee can accidentally damage a customer's property. Work performed at a customer's location can cause an injury or property damage. A product can injure someone after it has been sold. A contractor working on your behalf can create a problem that ultimately involves your business.

Liability risk also changes as a business evolves. New products, services, locations, contracts, equipment, customers or ways of doing business can create exposures that didn't exist when insurance was originally purchased.

Managing liability risk involves identifying what could go wrong, taking reasonable steps to reduce the likelihood or severity of a loss, and deciding which financial risks should be retained, transferred by contract or insured.

There are no "right" answers. The objective is to identify issues that may deserve additional thought.

For each question, select: Yes | No | Not Sure

1. Have you identified the ways your business could cause bodily injury or property damage to someone else?

Consider customers, visitors, vendors, neighboring businesses, property owners and members of the public, as well as activities performed away from your premises.

Why it matters:

Liability exposures aren't limited to obvious hazards. Routine business activities can create circumstances in which someone alleges that your business caused an injury or damaged property.

Something to consider:

Think through your operations from the perspective of someone who could be affected by them. Consider what happens at your premises, at customers' locations and anywhere else your business conducts activities.

2. Do you regularly inspect your premises for conditions that could cause someone to be injured?

Consider floors, sidewalks, parking areas, stairs, handrails, lighting, entrances, exits, shelving, displays and other areas accessible to customers, visitors or vendors.

Why it matters:

Slips, trips, falls and other premises-related accidents are common sources of liability claims.

Something to consider:

Establish reasonable procedures for identifying and correcting hazards. Consider documenting inspections, maintenance and corrective action when appropriate.

3. Does your business perform work at customers' locations or elsewhere away from its own premises?

Consider installation, repair, consulting, catering, delivery, maintenance, construction, demonstrations, events and other off-premises activities.

Why it matters:

Your liability exposure follows your operations. An accident away from your premises can still result in a claim against your business.

Something to consider:

Identify where employees and others working on your behalf perform business activities and what could happen while they are there. Different locations and activities may create different hazards.

4. Could your work cause injury or property damage after the work has been completed?

Consider installation, repair, construction, maintenance, service work, food preparation and other work whose consequences may not become apparent until later.

Why it matters:

Liability doesn't necessarily end when the job is finished. An allegation that completed work caused later injury or damage can result in a claim months or even years afterward.

Something to consider:

Consider how completed work could fail or cause harm and whether appropriate quality-control, documentation, inspection or follow-up procedures could reduce the risk.

5. Does your business manufacture, sell, distribute, import, alter, repackage or provide products to others?

Consider products you manufacture as well as merchandise, food, promotional items, private-label products, imported products and products incorporated into your work.

Why it matters:

A business can face liability when a product causes injury or property damage. The exposure may exist even when another company actually manufactured the product.

Something to consider:

Understand where products come from, who manufactures or imports them, how they are used and what records you maintain. Consider quality control, warnings, instructions, product tracking and procedures for responding to complaints or recalls where appropriate.

6. Do employees use customer property or have property belonging to others in their care?

Consider equipment, vehicles, keys, merchandise, documents, electronic devices and other property temporarily entrusted to your business.

Why it matters:

Damage to property belonging to someone else can create both financial and customer-relations problems. Insurance coverage for property in your care, custody or control may also differ from ordinary liability coverage.

Something to consider:

Identify what property belonging to others your business handles, its potential value and what controls exist to prevent loss or damage. Don't assume every type of damage to customer property is covered by general liability insurance.

7. Does your business hire subcontractors, independent contractors or other outside parties to perform work on its behalf?

Consider contractors who perform installation, repair, delivery, cleaning, construction, professional services or other work connected with your operations.

Why it matters:

Hiring someone else to perform work doesn't necessarily eliminate your business's potential liability. Your business may still be named in a claim arising from that work.

Something to consider:

Have procedures for selecting contractors and determining what insurance they should carry. Depending on the relationship and work involved, written contracts, certificates of insurance and appropriate risk-transfer provisions may be important.

8. Do you enter into contracts that require your business to assume responsibility for another party or provide particular insurance coverage?

Consider leases, customer agreements, vendor contracts, construction agreements, event contracts and agreements with property owners.

Why it matters:

Contracts can shift responsibility between parties and may require your business to assume obligations that wouldn't otherwise exist.

Something to consider:

Read insurance and indemnification requirements before signing a contract when possible. Some contractual obligations may not be covered by your insurance, and some insurance requirements may require policy changes or endorsements.

9. Are you asked to name customers, landlords, property owners or other organizations as additional insureds?

Why it matters:

Additional insured status can extend certain protection under your liability insurance to another party, but the extent of that protection depends on the policy and endorsement.

Something to consider:

Don't assume that issuing a certificate of insurance creates additional insured coverage. Additional insured status generally must be provided by the policy or an endorsement, and the scope of coverage can vary.

10. Could the use of a vehicle in your business create liability even though the business doesn't own the vehicle?

Consider employees using personal vehicles for errands or business travel, rented vehicles, borrowed vehicles and other vehicles not owned by the business.

Why it matters:

A business can potentially be held responsible for an accident involving a vehicle being used for its purposes even when it doesn't own the vehicle.

Something to consider:

Identify when personal, rented or borrowed vehicles are used in business. Hired and nonowned auto liability coverage may address some of these exposures, but coverage varies and isn't a substitute for appropriate insurance on the vehicle itself.

11. Does your business host, sponsor or participate in activities outside its normal day-to-day operations?

Consider trade shows, festivals, customer events, demonstrations, charitable activities, temporary locations, employee events and other special activities.

Why it matters:

An occasional activity can create a liability exposure that isn't apparent from your business's normal operations.

Something to consider:

Consider unusual activities before they occur. Determine who will participate, where the activity will take place, what could go wrong, what contracts are involved and whether your existing insurance applies.

12. Does your business serve, sell or otherwise make alcoholic beverages available?

Consider customer events, business entertainment, company parties, catered events and situations where alcohol is provided by someone else.

Why it matters:

Alcohol can create liability exposures that vary considerably depending on what your business does and the laws that apply.

Something to consider:

Determine whether alcohol is being sold, served or merely made available and who is responsible for providing it. General liability and liquor liability coverage are not the same, and applicable laws vary by jurisdiction.

13. Have you considered whether your business activities could cause damage to property you rent, occupy or work on?

Consider leased premises, temporary locations and buildings or portions of buildings where your employees perform work.

Why it matters:

Liability for damage to property occupied or worked on by your business can be more complicated than ordinary third-party property damage.

Something to consider:

Understand what property your business occupies or works on, what your contracts require and how your insurance addresses damage to that property. Certain exclusions, limitations or separate coverages may apply.

14. Do you have procedures for documenting and responding to accidents, injuries, property damage or complaints that could become claims?

Why it matters:

Information can disappear quickly after an incident. Witnesses leave, conditions change, video is erased and memories become less reliable.

Something to consider:

Establish procedures for promptly documenting incidents, preserving relevant information and notifying the appropriate people. Avoid making promises regarding responsibility or payment before the circumstances have been evaluated.

15. Do you periodically review your liability exposures as your business changes?

Consider new products, services, equipment, locations, customers, contracts, employees, subcontractors and changes in how work is performed.

Why it matters:

Insurance and risk-management practices based on what your business did several years ago may not adequately address what it does today.

Something to consider:

Review your operations periodically and whenever significant changes occur. Make sure the description of your business provided to your insurance professionals remains accurate and complete.

What Did You Learn?

This isn't a test, and there is no passing score.

Liability risk exists because businesses interact with customers, employees, vendors, property owners and the public. Even a business with few obvious physical hazards can become involved in a liability claim.

Pay particular attention to your No and Not Sure answers.

Then ask yourself:

1. Who could be injured or suffer property damage because of our operations?
2. What activities are most likely to cause a serious claim?
3. What happens away from our premises or after our work is completed?
4. What responsibilities have we assumed through contracts?
5. Have our operations changed since our liability insurance was last reviewed?

Liability risk can't be eliminated. The objective is to reduce the likelihood of preventable accidents, limit their potential severity, understand responsibilities assumed through contracts, and decide which financial risks should be retained, transferred or insured.

General Liability Insurance Has Limits

Commercial general liability insurance can provide important protection against certain claims alleging bodily injury, property damage, personal injury and advertising injury. It may also provide coverage for legal defense and other costs associated with covered claims.

But general liability insurance doesn't cover every way a business can become legally or financially responsible to someone else.

Depending on the business, separate or additional coverage may be needed for exposures involving automobiles, professional services, employment practices, pollution, cyber incidents, liquor, product recalls and other activities. Policies also contain exclusions, conditions, limits and definitions that can materially affect coverage.

Liability limits deserve consideration as well. The amount of a potential claim isn't necessarily related to the size of the business. A serious injury can result in a claim substantially larger than a business's annual revenue or assets. Umbrella or excess liability insurance may provide additional limits over certain underlying liability policies.

Insurance also shouldn't substitute for reasonable loss-control practices. Identifying hazards, maintaining safe premises, selecting qualified contractors, reviewing contracts and responding appropriately to incidents can help reduce both the frequency and severity of liability claims.

Explore Other Business Risks

General Liability Risk is one part of a broader risk management program.

Return to the Plapp Insurance Services Business Risk Self-Assessment Series directory to see other available assessments and additional topics as they're added.

Important Information

Please keep in mind that this assessment does not:

- identify every risk your business faces.
- determine whether your current insurance is adequate.
- recommend particular insurance policies or limits.
- replace professional insurance, legal, accounting, safety, IT or other advice.

It is designed to help you ask better questions.