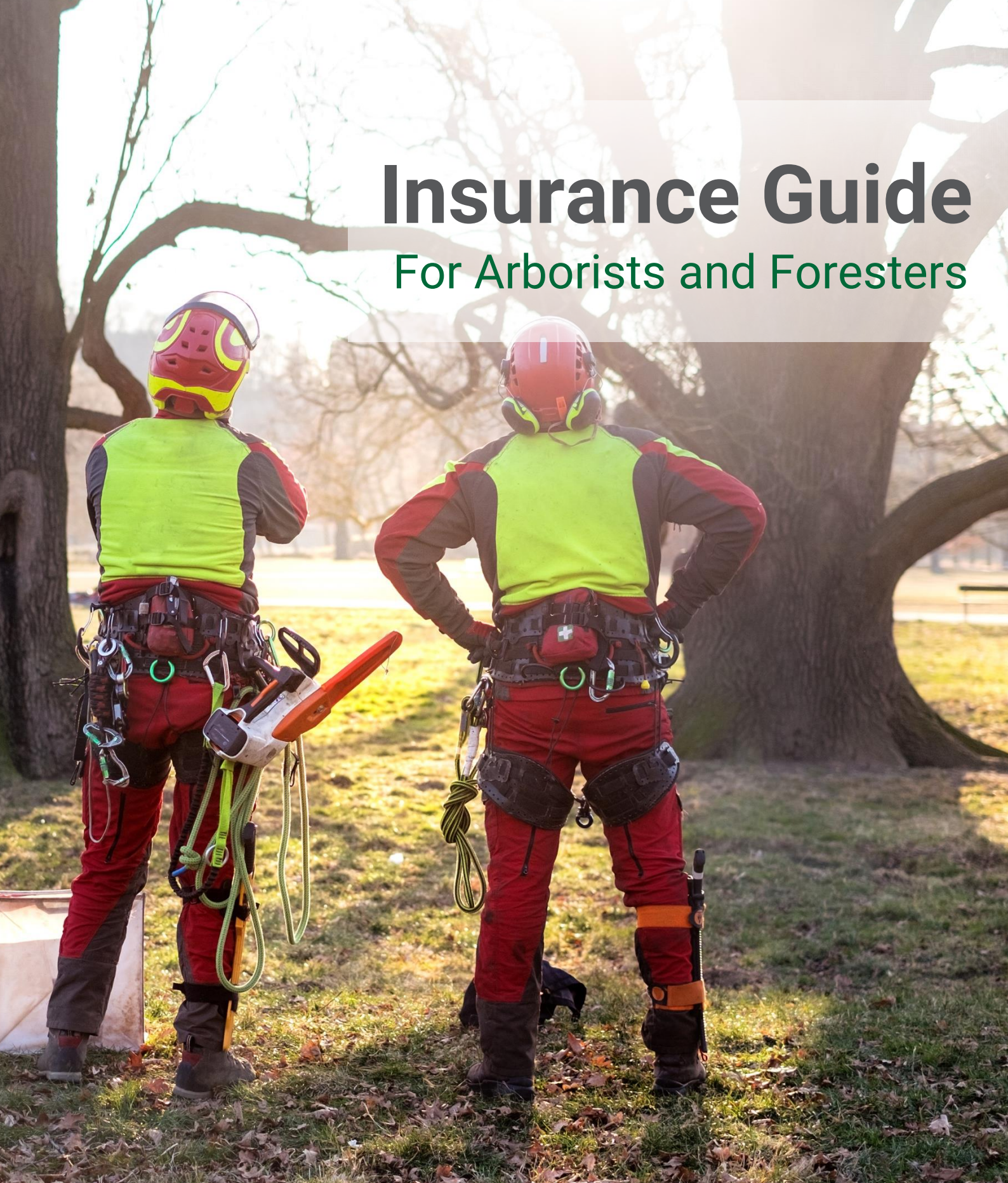


Insurance Guide

For Arborists and Foresters



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Introduction

By reading or printing this guide you are agreeing to our Terms of Use on Page 1.

For many people insurance can be a confusing issue. This guide is designed to help you understand the various types of cover available so that you can make an informed decision.

The information in this guide, whilst relevant to most businesses, must not be considered specific advice. It is based on our understanding of current law and taxation. We never make any recommendations without discussing your business in detail, so please feel free to call us for any further information or advice.

This guide will explain the various types of cover available and help you decide on their suitability for your business. There is also information on avoiding claims which has been compiled from our own data. Our Managing Director lectures at Arborist and Forestry Colleges, covering all the necessary insurance requirements for someone new to the industry. You can find one of these lectures on our [website](#), which is another excellent source of information. If you are a student or trainer, you could invite us to assist you with the insurance training. You should also read the [start-up guide](#) and [marketing guide](#) that are available on our website.

Reasonable Care

It is very important that you are aware that all insurance policies have a 'reasonable care' clause. This means if an event has occurred because you have not taken obvious or reasonable precautions then the insurance may not pay out. You may have insurance for your mobile phone but if you leave it on the dashboard of your unlocked car and it is stolen, then the insurer probably won't pay out because you haven't taken reasonable care. Insurance is for when you have taken reasonable precautions, not instead of them.

Types of Insurance

This guide covers the categories of insurance detailed below:

- Public Liability Insurance
- Employers' Liability Insurance
- Professional Indemnity Insurance
- Personal Accident Insurance
- Life Assurance
- Tools and Plant Insurance
- Commercial Vehicle Insurance

The one area where most confusion arises is the legal requirement to have Employers' Liability Insurance for self-employed subcontractors.

You must read the section on Employers' Liability Insurance even if you use self-employed subcontractors – see page 7.

Introduction continued...

Policy Excess

Most insurance policies have an excess. This means that you have to pay the first part of any claim. For example, if you had an excess of £500 on your policy and the claim was for £4,000, then the insurer would pay out £3,500.

Reviewing Your Requirements

When reviewing your insurance options, it is important that you are aware of the cover you must have by law, compared to those that are good business practice. When discussing the various types of cover, we have classed the insurances as:

> Legal Requirement

It is a criminal offence not to have this type of cover e.g., 3rd party vehicle insurance.

> Contractual Requirement

To gain a particular contract you have to have this cover. This is not the same as a legal requirement. You may lose the contract if you do not have £5million of Public Liability cover but you won't get a criminal record if you don't have it.

> Moral Requirement

However small the risk, a professional should not do any work without cover for any loss they might cause. 'You have a duty of care to make sure you are insured'.

> Personal Requirement

Some insurances are for your own protection rather than the customer.

Business Structure

Before you get quotations, you need to decide on how your business will be set up. You should talk to an accountant about the options below:

Sole Trader

This is when you are self-employed, so you work for yourself. You own 100% of the business and you are the boss. Don't get confused by the term 'sole trader'. It doesn't mean that you work alone. A sole trader can have an unlimited number of employees or subcontractors. The term only relates to the ownership of the business.

Partnership

This is similar to sole trader, but the business is owned by two or more self-employed individuals who share the profits and management. The business needs to be an official partnership that is registered with HMRC, not two sole traders who work together.

Limited Liability Partnership

This is more complicated as it is a cross between a Limited Company and a Partnership. This structure is seldom used in the arborist field.

Limited Company

This is a business which has been incorporated. This means its ownership is divided into shares and whoever owns the shares owns the company. The reason it is called a 'limited' company is the liability of the shareholders (owners) is limited to the value of the shareholder's investment in the company unless you have given additional guarantees. If you set up a company, it is likely you will be a director and an employee of the company, rather than self-employed. This business structure has some major advantages which you should review with your accountant. People often work as a limited company but refer to themselves as being self-employed. This is not correct.

What Affects the Cost of Insurance?

Type of Work

The more dangerous the work you undertake, the more your insurance will cost. The cost of insurance for tree surgery is more than for hedge cutting.

Turnover

Turnover is the amount of income your business generates or takes in total before any expenses are paid. This excludes VAT if you are VAT registered. The more work you do, the greater the risk of a claim. If you only work 2 days a week and your turnover is £12,000 then it follows you only have 40% the chance of making a claim compared with someone who is working 5 days a week, with a turnover of £30,000. Simply put, the more work you do the higher the turnover and the greater the risk of a claim.

Employees' Wages and Subcontractor Payments

Similarly, to the above point, the more people assisting you in your business, the greater the risk of a claim. The more dangerous work people do, the more likely the risk of an accident. The cost of insurance is normally rated according to how much you pay out to staff and the work that they are doing.

Experience

The more experience you have will often result in cheaper insurance premiums. Most insurers also include training as experience.

Claims

If you have had a claim, it will affect your insurance premium and, likewise, if you have not claimed for a number of years you may get a discount. However, you will often lose any discount if you let the cover lapse for even a brief period.

Claims Culture

The biggest single factor pushing up premiums is the ambulance chasing solicitors. It's not whether you have claimed but the claims of others that have put up the cost of your insurance. A good example is the UK being the whiplash centre of Europe. The average car insurance policy costs an extra £90 a year to cover the costs of the outbreak of often unproven whiplash claims.

Sum Insured

The larger the sum insured the greater the cost of your cover. £5million of cover will cost more than £1million of cover.

Public Liability Insurance

What is it?

Public Liability Insurance covers claims for accidental damage or injury to a third party occurring during the course of your business, for which you are held responsible. An example of such a claim is damage to a vehicle caused by dropping a branch on it during the course of your work.

Public Liability Insurance does not cover claims for injury to anyone working for you – for this you need Employers' Liability Insurance (See Employers' Liability Insurance p7.)

Do you need it?

- > **Legal Requirement** – No
- > **Contractual Requirement** – Sometimes
- > **Moral Requirement** – Definitely
- > **Personal Requirement** – Yes - unless you're very rich and can pay a £1 million claim from savings.

Unless you are covered by somebody else's policy, it is important to consider this type of cover. Some tree surgeons will be covered if they are subcontracting for other people, but this isn't always the case. You need to be 100% sure that somebody else has insurance that will cover you.

The risk of an accident is high and the potential claim against you could be anything from a few hundred pounds to millions. Moreover, any professional arborist owes a duty of care to his clients to make sure they are fully insured.

How much cover do you need?

The minimum cover available is normally £1million, although many organisations such as local authorities will require you to have a greater sum insured.

This type of cover goes very much hand in hand with Employers' Liability Insurance.

You MUST read the whole of the following section on **Employers' Liability Insurance** even if you use self-employed subcontractors – see page 7.

Employers' Liability Insurance

What is it?

Employers' Liability Insurance allows businesses to meet the costs of compensation for employees and other people assisting them, such as labour-only subcontractors, who are injured or made ill at work through the fault of the employer or contractor.

Do you need it?

> **Legal Requirement** – Almost always YES. Employers' Liability Insurance is a legal requirement for anyone with employees and/or most self-employed subcontractors. So, with very few exceptions you will need this if you have:

- Self-employed labour-only subcontractors - see below
- Employees
- Directors or office holders
- Volunteers
- Work experience students
- Apprentices

> **Contractual Requirement** – Sometimes

> **Moral Requirement** – Definitely

> **Personal Requirement** – It's always a good idea to insure against potential claims unless you're very rich and can pay a £10 million claim from savings.

Employers' Liability Insurance for Subcontractors

'Do I need Employers' Liability Insurance for self-employed subcontractors?' is something we get asked every day. The answer is almost always 'yes'. With the odd exception, this type of insurance is a legal requirement for any business using self-employed labour-only subcontractors.

This type of cover should really be called Employers' and Lead Contractors Liability Insurance. Even if somebody is not your employee for tax purposes, this does not automatically exonerate you from liabilities or the legal requirements under the Employers' Liability (Compulsory Insurance) Act.

Confusion often arises because there are different classes of subcontractors:

- **Bona fide subcontractors**
- **Labour-only subcontractors**

Bona Fide Subcontractors

What is a bona fide subcontractor? Well, it's difficult to be exact as the definition has many variables. It is easier to give a specific example of a bona fide subcontractor.

Let's say you get a JCB and driver in to clear some earth. They have their own very expensive plant, which you do not know how to use, so therefore you cannot instruct them or take charge. They have quoted you a rate for the job and not an hourly rate. They have their own safety procedures, insurance, work under their own steam, without your supervision. They won't be working under your instruction as they are very much the expert in this area. If this is the case, it is unlikely you will need Employers' Liability Insurance to cover them as they will be deemed to be a 'bona fide subcontractor'.

You need to be aware that this is an example only. There is never a 100% guarantee that a court would deem somebody to be a bona fide subcontractor.

Employers' Liability Insurance Cont...

Labour-Only Subcontractors

What is a labour-only subcontractor? Well, again, it's difficult to use an exact definition but let's run with an example to demonstrate the difference.

You use a self-employed groundsman to assist you. You tell him what time to start and the way you are planning to tackle the job. You will be instructing him and giving commands. Clearly you are in charge and as such you are responsible for his health and safety. The law requires you to have Employers' Liability Insurance.

You are very unlikely to have a bona fide relationship with any climbers or groundsman. In fact, it is almost impossible. In short, the law is broadly like this;

If it's your job, then you're in charge of it. If you're in charge of it, then you are in charge of everything about it – and this includes the subcontractors. If you are in charge of the subcontractors, then you are in charge of their health and safety and if this is the case the law is very clear. It is a legal requirement that you must have Employers' Liability Insurance.

If you use self-employed labour-only subcontractors and you don't have Employers' Liability Insurance then you are probably breaking the law. The fine is up to £2,500 per day and could result in a criminal conviction. There are a few exceptions – but only a few. Getting self-employed people to sign a statement that you are not responsible for them has absolutely no legal weight and, more importantly, is bad business practice.

Employers' Liability Insurance and Partnerships

Legally, if you are a partnership, you may not need to cover the partners with Employers' Liability Insurance.

We sometimes get calls from arborists saying 'me and my mate work together and share jobs but we are both sole traders.' Informal partnerships do not exist. You are either a proper partnership, registered with the tax office, or you are not a partnership. There is no grey area.

Working together does not make you a partnership. If you are simply job sharing then you are probably a sole trader, with a subcontractor assisting you. Unless a customer rings you both at once there is a lead contractor and a subcontractor – and whoever is the lead contractor is in charge.

In summary, virtually all arborists need to have Employers' Liability Insurance to cover self-employed, labour-only subcontractors. It is the law, and you need to comply.

We often hear that a client has been advised that they don't need it just because their subcontractors have their own insurance. This is wrong and could land you in very hot water.

This guide is designed to make you think about the law. Not advise you on it. Full details of the Employers' Liability (Compulsory Insurance) Act 1969 can be found at:

<http://www.hse.gov.uk/pubns/hse40.pdf>

Professional Indemnity Insurance

What is it?

Professional Indemnity Insurance covers potential claims in respect of financial losses incurred by third parties due to your negligence in connection with written or verbal:

- Report writing
- Journalism
- Training
- Research
- Your opinion or any advice
- Equipment/safety inspectors

An example of when a claim could be made, would be the arborist who writes a report saying that a tree's roots are not going to damage the foundations of a house. If, at a later date, the foundations were subsiding due to the tree, then a claim could be made. You should note that a claim could occur at any time in the future, and it may well be prudent to maintain cover for an indefinite period.

Do you need it?

- > **Legal Requirement** – No
- > **Contractual Requirement** – Often
- > **Moral Requirement** – Definitely
- > **Personal Requirement** – Possibly, to protect you and your business.

Personal Accident Insurance

What is Personal Accident Insurance?

Well, it's a broad definition for a variety of policies that give you some form of payment in the event of an accident that prevents you from working. The quality of cover varies, and we can supply you with further information if required, or you can [find out more on our website](#).

Do you need it?

- > **Legal Requirement** – No
- > **Contractual Requirement** – Not normally
- > **Moral Requirement** – Definitely to yourself, partner and any dependents
- > **Personal Requirement** – Definitely.

How would you pay your bills if you had an accident and couldn't work? This is an important question that is rarely asked.

Most people insure everything in life – their home, pets, car etc. If someone breaks into your house, then your TV would probably be covered. But what would be worse? Somebody stealing your TV or you fracturing your spine and never working again?

Arborists often insure their tools. But what is the most important thing in your business, and usually the only thing that is not insured? YOU!

'You can always get a new chainsaw, but you can't buy a new leg'

Life Assurance

There is only one thing worse than a nasty injury that stops you from working - one that kills you! Every year people are killed at work, so while an unpleasant subject, this needs to be reviewed.

What is it?

A policy that pays out a lump sum or income on the death of the assured.

Do you need it?

- > **Legal Requirement** – No
- > **Contractual Requirement** – Not normally
- > **Moral Requirement** – Definitely if you have dependents like a partner or children
- > **Personal Requirement** – As above

It is also worth considering the impact the death of a business partner or employee may have on your business. You can take out cover to protect the business from this. This is known as Key Man Insurance.

Tools And Plant Insurance

This is the second most requested type of cover and can be essential for any business.

What is it?

This insurance will help replace the cost of tools and plant if they are stolen or damaged. This can be your own equipment or hired-in equipment. The obvious example is theft of tools from your garage. This type of cover usually has several security conditions which you have to meet in order to be covered.

Do you need it?

- > **Legal Requirement** – No
- > **Contractual Requirement** – Often, if you have borrowed money to buy the tools or plant
- > **Moral Requirement** – Depends on the situation
- > **Personal Requirement** – As above

Insuring your tools for the correct amount

People often under-insure the value of their tools. They **wrongly** assume the following:

If you have £10,000 worth of tools, then you can insure them for £5,000 as it is cheaper than the whole £10,000. The reason is that you feel you are unlikely to lose more than £5,000 worth of tools in the event of a claim.

In the event of a claim for £5,000 in the above situation the following would happen:

1. The insurance company would realise that you had £10,000 worth of tools. This can be done by visual inspection or looking at your accounts.
2. Clearly you would have insured half the value of your tools. But which half? The half that was stolen or the half that was not.
3. If you claimed for £5,000 worth of tools, the insurance company would say you have only insured half your tools. Therefore, they would only pay out half the value of the claim - £2,500.

So, you must insure your tools for the whole value and not a percentage of the total value.

Commercial Vehicle Insurance

It is a legal requirement to have insurance covering damage or injury you cause to other people and their property - commonly known as Third Party Liability Insurance. Most people have more cover than the minimum legal requirement and the common options are:

- **Third party, fire and theft** – this insures your liability to others if you are involved in accident where you are at fault. It also insures the vehicle if it is stolen or catches fire.
- **Comprehensive cover** – as above, but this will also cover damage to your own vehicle in an accident.

If you are using your vehicle for any business purpose, you must inform your insurer, as most normal policies do not cover any form of commercial use. This is also true if the vehicle has been modified - such as being converted to a tipper.

Be very careful about leaving tools in vehicles overnight as most insurers will not cover this.

Do you need it?

- > **Legal Requirement** – Yes
- > **Contractual Requirement** – It will be assumed you have it
- > **Moral Requirement** – Yes
- > **Personal Requirement** – Yes, if you can't afford the repairs if your vehicle is damaged.

Avoiding Claims

Below is a list of our most frequent claims. The following tips give guidance on how to avoid them and should be adopted along with all normal precautions and policy conditions/ endorsements. Whilst not bullet-proof these will greatly reduce the risk of a claim.

All insurers reserve the right to refuse to pay a claim if you have not taken reasonable precautions.

- Always use a cable or pipe scanner before stump grinding/removal or digging. We frequently hear 'I didn't realise there would be a cable there'. Pipes and cables are often laid 30 years earlier, before any trees are planted. You should also check site plans with local authorities or utility companies. A scanner will cost substantially less than your excess, so invest in one now.
- Stone chip damage to glass is our number one claim. When using strimmers or any equipment near glass, always put boards across nearby windows and doors. Most of these claims are for less than your policy excess, so any repairs will be down to you to pay for.
- Have a burglar alarm fitted to where you keep your tools and equipment. This will greatly reduce the chances of a claim. Most insurers include this as a requirement.
- Don't allow your staff to have their mobile phones in their pockets. They get distracted when they ring, and this causes accidents.
- Don't leave tools in vehicles overnight. More tools are stolen in this situation than any other time. As a rule, these types of claims are not covered by your insurance.
- Don't leave tools unattended while on a job e.g. In the back of your van or in a garden. If you can't see it, lock it up.
- Have an alarm fitted to your vehicle. Smash and grab during the day is becoming more common.
- Make sure you have a contract or terms of business in place. Include a description of the job you are doing and any relevant disclaimers, otherwise you are leaving yourself open to disputes (which includes getting paid on time). [You can find out more about this here](#).
- To avoid an expensive claim and a nasty prosecution, do not listen to anybody who says you don't need Employers' Liability Insurance for your sub-contractors because they have their own insurance. They are talking rubbish.

Summary

There are two golden rules when looking for insurance:

- Always go to a specialist insurance company.
- Buying the cheapest cover can cost you dearly.

An excellent source of information is our Facebook page www.facebook.com/tsins, but by far the best option is to call one of our expert advisers.

Call us now with any questions, quotations or for advice:

Call: 01732 373 864

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