



Claims notification procedure

Introduction

Clients often seek advice when they face possible claims and are unsure what to do. We have prepared these notes to answer questions that frequently arise.

What should you notify?

Notify JMD Ross in writing as soon as reasonably possible of any claim or intimation, verbal or in writing, that anyone is considering making a claim or counterclaim against you, or you become aware of any circumstances that may give rise to a claim.

What does this mean in practice?

You should notify us if:

- You receive a letter that is critical of your work, or work for which you are responsible, but does not specifically state that a claim is being made.
- You become aware of a potential claim through attending a site meeting or during informal conversations with another member of the design team, your client, or the contractor. You should tell us about this because a formal claim may follow.
- You find an error and need to remedy the situation so we can give you advice and obtain the insurer's approval to the proposed actions.
- You receive a letter of claim before starting proceedings from a claimant or their solicitor, issued in accordance with a pre-action protocol. You need to contact us without delay as the protocol sets a tight timetable to deal with disputes.

When to report?

It is in your best interests to contact us as soon as you become aware of a possible problem. If you have to ask yourself whether a situation should be reported, then it should be. If you are in any doubt, discuss the matter with JMD Ross Insurance Brokers.

Contact us whatever your views on the merits of the claim and before making any response to the claimant. Your proposed reply should be submitted to us in draft form for the insurer's approval.

Section 40(3) of the Insurance Contracts Act 1984 (Cth) applies to the policy. So if you become aware of any facts that might give rise to a claim during the policy period, notification should be provided through us to the insurer as soon as reasonably practicable, and before the policy period expires, to obtain relief under the Act.

What information is required?

JMD Ross has a simple form for clients to complete but, even if not all information is available immediately, please do not delay in contacting us. In general we need the following information:

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- the title and location of the project
- the identity of your client and the date and terms of your appointment
- the identity of the claimant, if they are not your client
- an explanation of how the problem arose, your views on the cause, and an estimate of the possible loss
- a copy of all relevant correspondence
- the original copy of any formal proceedings or letter of claim issued in accordance with any pre-action protocol.

Please mark any correspondence to us as 'privileged and for the purpose of obtaining legal advice'. An optional claim form has been developed to assist you in assembling the information. Please contact us if you would like a copy.

Forward all information to JMD Ross Insurance Brokers. One of our specialists will contact you within 48 hours to offer advice.

Do not

- admit liability or offer any payment
- admit you are insured if you can avoid doing so
- reply to any intimation of claim without the insurer's prior approval
- incur any costs or expenses without the insurer's prior consent.

What happens once the claim has been notified?

Keep JMD Ross Insurance Brokers fully informed of all developments and do not take any action without contacting us first. If a report is purely precautionary, we will contact you periodically to confirm the position and, after a period of inactivity, we close the file. If the circumstances come to life later, the claim file is re-opened. It may be necessary to appoint solicitors or experts to assist in handling any claim and you should fully assist them.

Remember

The fact you may not feel vulnerable to a potential claim, or the value is likely to be within your self-insured excess, does not change the above. Often, what seems an innocuous problem can escalate into a major claim and, even if your initial reaction is there is no risk of a claim arising, circumstances can often change with time.



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JMD Ross Insurance Brokers Pty Ltd operates as a strategic partner in Australia to Griffiths & Armour Professional Risks Ltd.

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