

The cost of human error

The Grayston Bridge collapse in 2015 and the listeriosis outbreak in 2018 are just two examples of how the human factor can impact business, frequently with long-term consequences.



Grayston Bridge collapse. Image: Vision Tactical

The Annual Specialist Risk Review survey by Stalker Hutchison Admiral (SHA), a subsidiary of Santam, shows liability claims are up by 56% since 2016. Surprisingly, many businesses carry inadequate liability covers with insufficient limits and limited cover, and in the case of professionals 43% of them have no cover at all, says the report.

Not having this kind of cover has big financial implications for businesses. Individual professional indemnity (PI) claims can amass to millions, which is why it is important to not only PI but also other kinds of specialist liability insurance cover. This year, we surveyed more than 650 businesses to obtain valuable insights into “loss incidents and events, which we attribute to the declining human capital risk index (HCRI)”, says Gareth Beaver, chief executive officer at SHA.

HCRI refers to the gap between the goals of an organisation and the skills of its workforce to execute successfully on these goals. As this risk increases, organisations are experiencing increased regulatory exposure as well as exposure to losses, both financial and loss of life due to human errors.

Key trends in PI and liability claims

The average value of intimated liability claims has increased by 100%, from R557,000 to R1.25m. An intimated claim refers to the first notification of a claim to an insurer, where the insurer must investigate the validity of the claim before accepting the responsibility of paying the claim amount. Other key trends include:

- The average value of personal injury (slip-and-trip) claims rose from R172,600 to R270,690 between 2016 and 2018;
- The total value of capital settlements on liability claims grew by 42%;
- An increase of 190% in annual liability claims payments between 2013 and 2018;
- A surge in intimated claims for product liability from R1.65m to R14.75m; and
- Claims arising from physical damage to property remained at an average of R1m over the past two years.

A key reason for the increase in claims can be attributed to more widespread consumer awareness of their rights, the legal remedies available to them, and the amounts they stand to gain if a liability suit goes to court. This, coupled with a tough

economic climate, is driving consumer behaviour. In the PI space, increases in claims are due to professionals taking on work at reduced fees, cost-cutting strategies that have adverse effects on risk management and a deterioration in the level of skills transfer within businesses, all of which lead to errors by inexperienced staff.

Some advice for businesses and organisations

To efficiently manage liability risks, including workplace health and safety in your own organisation and ensuring your business has the following risk management systems and processes in place:

- **Governance**

This refers to your organisation's framework, procedures and policies on risk management. It includes the process of reporting and recording an incident as well as the contact details for people who need to be notified should an incident occur.

- **Prevention and hazard management**

In order to minimise the occurrence of loss incidents, it's important that your staff are updated regularly regarding any changes in policy and processes as well as how to comply with these. Preventative measures you can take include evaluating the risks certain activities and products pose to customers, suppliers, contractors and workers' health and safety and the precautions or steps required to ensure these are avoided.

- **Response**

How quickly and efficiently you and your team respond to an incident is a large part of managing risk and forms part of your organisation's risk management policies. Until a business actually lists the types of incidents they are exposed to it will be impossible to develop a plan on how to deal with the events. This should really be done with an insurance broker's guidance. A crisis response plan can then be drafted to ensure that the right people in the organisation know what to do when an incident occurs. The advent of social media means that in the modern business environment, businesses don't always have a lot of time to react to incidents that have potential for serious reputational damage.

- **Claims management**

Liability claims can take three to five years to reach a conclusion. Additionally, legal fees have gone up by between 8% and 10% each year, which means that your legal fees could go up exponentially given inflation. Most liability based policies in SA are structured in such a way that the legal defense costs and the damages come out of the same limit of indemnity. Run-away legal bills can lead to a complete depletion of the insurance coverage, leaving nothing left for damages or compensation payments. It is therefore key that the insurance is placed with a carrier that has proper liability claims management skills, keeping a vigilant eye on legal fees and making sure settlement opportunities do not slip by without the proper attention. SHA reported that in spite of a marked increase in claims payments, they had managed to cut the legal cost spend on unnecessary defense costs, preserving more of the insurance coverage for indemnity payments.