

“CLAIMS-MADE” POLICY LAWSUITS REPORT IN TIME TO ACTIVATE COVERAGE!

You just received a statement of claim accusing you of “wrongful acts” or a notice of filing under the Ontario Human Rights Act - now what?

Typically, coverage for wrongful dismissal lawsuits or wrongful acts is available under policies referred to as Directors & Officers, Employment Practices Liability or Errors & Omissions Liability. Such policies are written under a “claims-made” wording. However, there is a major distinction between “claims-made” policies and “occurrence” based liability policies.

Occurrence based liability policies are typically for bodily injury or property damage only. They offer permanent coverage for incidents during a policy period and are renewed every year so that incidents may extend from one policy year to another. Each year the limit is reinstated. These policies are intended to protect your school or childcare centre from any covered incident that occurs during the policy period regardless of when a claim is filed.

Claims-made policies, on the other hand, provide coverage only for claims when both the alleged known incident and the resulting claim have happened during the period the policy is in force. **The timing of reporting the known incident is therefore crucial. It is also vital that before your policy expires each year, you report any and all known incidents that could potentially lead to a claim. Most importantly, you must notify your broker and insurer of any known incident or any statement of claim immediately upon receipt. Failure to do so may completely invalidate coverage for defense costs and/or loss reimbursement.**

While the first reaction for both occurrence and claims-made policies may be to appoint your own lawyer to defend you, your insurers **will not** pick up these costs retroactively. They reserve the right to assess the claim and appoint their own legal team for your defense if coverage is verified.

Please contact your trusted advisor here at CCV immediately upon any known incident or potential employment practices action. We will guide you through the process and answer any questions you may have along the way.

This literature is descriptive only. The precise coverage afforded is subject to the terms, conditions and exclusions of the policy issued.