



## **MEMBER SERVICES**

### ***Advice Note 12: Insurance Information***

This is a general guide to insurance. Detailed explanations are used to highlight different types of insurance policies with examples further explaining individual policies. A realistic case study builds a general picture of all policies across the board in practical, relevant terms. Risk assessment information is covered with a practical and informative guide to risk assessing.

#### **INTRODUCTION**

Unfortunately for many organisations, insurance only becomes an issue when something goes wrong. Seeking adequate insurance is a vital stepping stone in the setting up and development of an organisation. It is essential that all organisations protect their assets and liabilities by having adequate insurance cover. Insurance is an ongoing issue and should be reviewed on a regular basis by the management committee.

The voluntary and community sector is diverse – not all organisations are the same. They carry out different activities with different degrees of risk. Organisations may therefore require different insurance policies. It is recommended when seeking insurance to ‘shop around’, obtaining alternative quotations from insurance companies. It is useful to consult with a qualified insurance broker to ensure that adequate and affordable insurance has been obtained. If an organisation fails to obtain appropriate insurance cover, then individuals within the organisation could be potentially liable. Insurance brokers will advise and inform organisations what insurance is needed to cover their particular work activities.

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In an attempt to help groups obtain the necessary cover, NICVA in conjunction with Marsh UK has arranged to provide an insurance scheme tailored to the needs of the voluntary and community sector in Northern Ireland. The scheme will automatically provide the following cover:

- Employers' liability.
- Public liability to cover your liability to employees/volunteers/members of the public.
- All risks insurance on office contents and equipment. This can be further extended to cover buildings.
- Increased costs of working following loss/damage at the premises.
- Loss of cash.

The following insurances are also available at preferential rates – professional liability/directors and officers/trustees' liability/legal expenses/travel/minibus.

It is good practice to assign an individual in the management committee or a member of staff to oversee the issue of insurance for the organisation and to be the main point of contact with the insurer/broker and to report back to the committee. This may avoid overlapping and confusion. The individual may be given additional responsibilities such as:

- (1) Establishing the insurance requirements of the organisation.
- (2) Ensuring that the committee makes a clear decision regarding the terms and extent of the organisation's proposed insurance cover.
- (3) Purchasing the insurance for the organisation.
- (4) Ensuring that the committee carries out regular reviews of the activities, services and equipment used in case further insurance cover is needed.
- (5) Renewing existing policies before they expire.
- (6) Informing the management committee/managers of insurance issues.
- (7) Taking responsibility for the risk management within the organisation.

Insurance should be put on the agenda for the Annual General Meeting and all individuals within the organisation should be aware of:

- (1) Insurance policies and the insurer for each policy, if applicable.
- (2) Details of the insurance costs, risks that are covered under the policies and confirmation of any payments by insurer.
- (3) Activities or assets that are excluded from insurance cover.

The management committee, as well as staff and employees, is responsible for minimising the risk of liability. All need to ensure that they adhere to legislation that can affect their insurance (for example, health and safety requirements), operate working procedures which minimise risk, and issue clear instructions for the action to be taken in the event of an emergency.

**Examples** (these examples are based on real life situations which have occurred):

Organisation A – premises sustained damage by flood.

Contents/equipment/computers were damaged. When the claim was submitted, it was discovered that the insurance on contents was not all risks and there was no cover for the loss.

Organisation B received a claim from a volunteer who sustained serious injury whilst carrying out voluntary duties for the organisation. Whilst they had public liability insurance to cover members of the public, it excluded volunteers. As the organisation had no employees, they felt that they did not need employers' liability insurance so there was no cover in force for this situation.

Organisation C organised a fete at which sandwiches and refreshments were sold. A number of people took ill from food poisoning as a result of bacteria in the sandwiches and sued the charity. Whilst the organisation had public liability insurance, it did not extend to cover liability for injury/damage resulting from food and drinks sold/supplied. All public liability policies should be extended to cover this eventuality.

Organisation D has a number of volunteers who use their own private cars for the organisation's business. One of the volunteers was involved in a serious accident. His motor insurers declined liability as the volunteer was only insured for social/domestic and pleasure purposes. The volunteer's work for the organisation was deemed to be 'business' use and the volunteer's private car policy should have been extended accordingly.

## **INSURANCE POLICIES**

*“An insurance contract contains an agreement by the insurer to provide, in exchange for a set insurance premium, agreed upon benefits to a beneficiary of the contract upon occurrence of specified uncertain or contingent future events affecting the life or property of the insured party ie a transfer of such risks”*, quotation from paragraphs 17 and 25 of the IASC Insurance Issues Paper, Features of Insurance Contracts.

### **Employers' liability insurance**

Whether your organisation is an unincorporated or incorporated organisation, employers' liability insurance is compulsory whenever individuals are employed to work within an organisation - it is a legal obligation under the Employers' Liability (Compulsory Insurance) Act 1998. An employer is responsible for the health and safety of employees whilst at work. When obtaining employers' liability insurance for a voluntary organisation, be sure to purchase insurance that covers employees, volunteers and trustees, as not all employers' liability policies automatically cover these categories.

Remember to include temporary, part-time employees, casual staff, trainees and those placed on government schemes.

Employers' liability insurance covers an organisation if an employee has an accident or is injured at work, or becomes ill. The employee has the right to claim compensation for death or injury, if accidents or injuries occur as a result of negligence or misconduct of the organisation or staff or volunteers employed by the organisation. In order for an organisation to pay compensation, an insurance policy must have been obtained, ie employers' liability. If this is not the case, a claim can be made against the management committee. They will be held liable and both they and their organisation are potentially at risk of financial difficulty.

A certificate of employers' liability insurance must be displayed in the workplace so that employees can read it at any time. An employer can be fined £2,500 for each day it does not have insurance for an employee, according to the Employers' Liability (Compulsory Insurance) Regulations 1998.

### **Public liability insurance**

Public liability or third party insurance is a policy which is essential when working within the community. The policy protects an organisation from claims made by the public for death, injury, loss or damage to property due to negligence or misconduct of the organisation or staff employed by the organisation. The policy covers anyone who (for whatever reason) has contact with the organisation and its premises - usually the general public. All organisations which have premises which are open to the public should have public liability insurance in force. It is required by the majority of funding bodies.

Public liability insurance is often combined with other policies such as employers' liability or building and contents insurance. An organisation should agree a list with the insurer to confirm what activities, etc, are covered within the insurance policy. Regular review of the policy is needed especially if an organisation decides to hold a special event that requires additional cover to that covered in the original public liability insurance document.

Some public liability policies may automatically exclude for example, damage to or loss of property in car parks or reception areas. The public should be made aware of this through a disclaimer notice. It is advisable to seek legal advice when doing this, as particular wording needs to be used.

When a claim is made of negligence, misconduct or breach of duty must be acknowledged or proven for a claim to become valid. Public Liability insurance covers against the risk of the management committee potentially being held liable and putting the future of the organisation at risk.

## **Example**

A community development association in North Belfast has been in operation for a number of years. It has premises in its local area and it aims to provide services to meet the needs of the community to promote social cohesion and community development.

The association employs four staff, three volunteers and one trainee. By law it is required to have employers' liability insurance. When purchasing the policy, it specifically ensures that the policy covers all staff, full-time and part-time, trainees, volunteers, etc. It intends to update the policy continually as more staff, trainees, volunteers, etc, may be recruited and employed.

As the community development association is currently functioning from premises which are used by the organisation's members and other members of the public, it requires public liability insurance. This will protect it against claims in the event of an accident occurring on the premises and a person being injured as a result.

## **Buildings insurance**

If an organisation leases or owns a building, it will need to be insured against damage by fire and 'other perils'. Many leases contain a clause which requires the holder of the lease to insure the building. It is vitally important to get adequate cover so that if the worst happens and a building needs to be completely rebuilt, the replacement cost (not just the market value) of the property will be covered by insurance. The replacement cost should include demolition and site clearance, architects' and other fees, building costs and any VAT which may be payable. It is sensible to get a quantity surveyor to estimate the cost of rebuilding an entire building at current prices.

Cover should be reviewed regularly to make sure it is still adequate. 'Other perils' in the context of buildings insurance covers damage which is likely to occur and is not usually costly eg storm, flood, burst pipes, accidental and malicious damage.

Not all buildings insurance covers land, roads, pavements, ridges, etc, which can be damaged by, for example, fire or flood. This should be taken into consideration when buying the policy. An organisation should also consider additional costs which will be incurred if the building cannot be used. This can be covered by consequential loss insurance.

## **Consequential loss insurance**

Consequential loss insurance covers a situation where, for example, an organisation wants to ensure that it will have a place to house its activities and staff while the building is being rebuilt as a result of damage.

Also, if the organisation suffers from having to temporarily suspend fee-paying activities such as educational courses, this will be covered under consequential loss insurance. The insurance policy will provide for the loss of income until the organisation is up and running again. It will also provide cover for additional costs such as temporary renting of a building and additional expenses to carry on activities provided by an organisation.

A period of time should be specified within the policy to ensure that expenses, etc, are covered while refurbishments or rebuilding takes place. The usual period is six or twelve months.

### **Contents insurance**

Contents insurance covers damage or loss of property. It is important to make sure the cover is adequate to meet the cost of replacing any equipment, machinery and other items stolen, lost or damaged, including those damaged by fire.

With contents insurance it is important to check precisely what is covered and it is strongly recommended that the insurance is arranged on an 'all risks' basis which would include cover for theft and accidental damage.

Make sure the contents of your premises are adequately valued and that the amount of cover is increased to reflect the contents. It is best to take a 'new for old' clause in the contents insurance policy. This means if a three year old computer is damaged or lost in a fire, a brand new one will replace it (as long as the contents have been accurately valued). Exclusions and limitations within the policy should be clearly identified so that you know what you are insured for. This insurance should also cover loss of cash – including money on the premises/in transit and in the homes of authorised staff/volunteers.

### **Example**

The building that the community development association in North Belfast uses will need to be insured against potential damages. The association has purchased buildings insurance which will insure the building against damage by fire, flood or 'other perils'. The association and lessor have a written agreement which specifies evidence of where the responsibility lies. The association believes this was good practice and is aware of its rights and responsibilities.

As the association organises activities of a social and educational nature through the week and at weekends, it decided that consequential loss insurance is also needed. The community would obviously be affected if these activities were ceased and therefore consequential loss insurance will cover costs to run activities elsewhere if it had to move from its premises as a result of fire, damage, etc.

A contents insurance policy indemnifies all the association's equipment, eg computers, telephones, photocopiers, furniture, machinery, etc, against damage and theft. It purchases an 'all risks' policy with a 'new for old' clause.

### **Hired premises/contractual liabilities**

Many public liability insurance policies exclude contractual liabilities (such as those arising from hired premises). It is vital when hiring premises that the two parties involved clarify, in writing, who is responsible for the insurance in the instance of damage to the property, including fire damage, damage or theft of the contents of the premises and public liability. Conditions of hired premises insurance should be discussed and agreed between insurers and the hirer. Responsibility for potential liabilities must be clear to all parties involved, ie a list of potential risks.

If a group is to arrange its own cover, the organisation from which the premises is being hired should take certain steps to ensure that the cover has been confirmed and have the group's name included as joint insured. This can be time consuming and complicated. The insurance broker can provide advice here.

### **Personal accident insurance**

If the management committee, an employee, or a volunteer has an accident in the course of their business while working on behalf of a voluntary organisation, this will only be covered by employers' liability or public liability insurance if there has been negligence on the part of the organisation. Personal accident insurance covers accidents arising irrespective of negligence. In other words the claim is not against an individual.

A person claiming on this sort of policy will receive a sum of money to compensate for his/her injuries and the incapacity resulting from the accident. In the event of death, next of kin will receive a payment. The injuries would have to be of a disabling nature and are defined in the policy.

### **Professional/personal indemnity insurance**

A voluntary organisation which provides advice and information (either written or oral) to members of the public could be liable if it gives incorrect information to a person and, as a result, financial loss is suffered by that person. This also applies to free advice given through helplines. An advisor may even be liable in a situation where advice is passed on by a recipient (without the advisor's knowledge) to others. Professional indemnity insurance covers this type of risk. It also gives protection against defamation, breach of copyright, confidentiality and loss of documents.

Organisations providing advice or information should take reasonable care that the advice given is correct. Evidence of this would be helpful in defending a claim. A written notice stating that the advice and information provided may not necessarily be correct and should not be relied upon should be advertised. This is known as a disclaimer notice.

Included in the professional indemnity insurance policy is protection against claims due to injury, loss or damage as a result of incorrect or inaccurate information, negligence or misconduct.

It is advisable to discuss the nature of your organisation with your insurance broker/company, listing all the activities and services provided by the organisation. They will advise you if professional indemnity insurance is appropriate.

### **Example**

The community development association in North Belfast periodically hires a hall out in the local leisure centre to provide discos, yoga and pilates classes, and salsa dance classes, with an occasional bingo night to raise funds. Again they have followed good practice and have a written agreement between themselves and the leisure centre as to who is responsible for the insurance of the building and public liability. The leisure centre has delegated the responsibility of the insurance to the association which as a result has purchased hired premises/contractual insurance. This will indemnify the premises against damage, damage to its contents, theft and public liability.

Because the association's work involves working with children, teenagers, adults and vulnerable individuals and groups, they decided in the interest of the organisation to purchase personal accident insurance. Similar to employers' liability and public liability, personal accident insurance will cover accidents to participants as a result of misconduct or negligence on behalf of the organisation.

The association offers a counselling service as well as an advice service (similar to that of a Citizens Advice Bureau). Due to the nature of this service, they thought best to purchase professional indemnity insurance. This will protect them against any claims made as a result of financial loss, accident or injury from the information and advice that the association has provided.

### **Legal expenses insurance**

Getting legal advice in a dispute can be costly, even if the outcome is one where your organisation is cleared. Legal expense insurance covers solicitors' and barristers' fees, court attendance allowances and opponent costs in contract disputes, property disputes and unfair dismissal disputes.

Legal expenses insurance protects an organisation from any legal fees incurred as a result of employment law, health and safety claims, etc. Other insurance policies may include legal expenses. However, care must be taken to assess the terms of such cover in that policy. If the policy does not include this type of cover, an organisation should consider whether they want to purchase this policy. Organisations which provide high risk activities or which work with children or vulnerable groups within the community should especially consider purchasing legal expenses insurance.

## **Trustee indemnity insurance**

In law, people on the board of any organisation are ‘trustees’ and have certain legal duties and standards to uphold. Trustees (even in a charitable company) can be made personally liable for breach of trust. This can arise if, for example, the trustees fail in their duty of care to act as reasonable and prudent businessmen and women and, as a result, cause a loss to the organisation.

Trustee indemnity insurance (also called trustee liability insurance, or directors’ and officers’ insurance) may be paid out of the funds of an organisation to protect the board as far as possible from personal loss or bankruptcy as a result of a breach of trust, or a breach of duty as a trustee or company director.

However, trustee indemnity insurance does not protect trustees from all risks of this kind. For example, the insurance will not cover any fraudulent or dishonest behaviour acts which the trustee knew to be a breach of trust or duty, or any act committed in reckless disregard of whether it was breach of trust or not. In non-charitable companies or industrial and provident societies, trustee indemnity insurance may cover a wider range of acts including acts such as ‘wrongful trading’ or acts where the directors did not take advice.

This would include situations where trustees allow the organisation’s funds to be used for purposes outside the organisation’s objects and powers, provided they genuinely had reason to believe the purposes were within the objects and powers. Similarly the trustees may be covered if they allow the funds of the organisation to be used for political purposes outside the boundaries permitted by charity law provided they genuinely believed their actions were correct, or had been so advised. Finally, trustees who cause loss to their organisation through poor investments may be covered, provided they had taken the proper advice and acted prudently.

## **Fidelity insurance**

This protects organisations which experience theft or dishonesty by volunteers, employees or board members. It provides cover (up to an agreed limit) for fraud or dishonesty of staff and could be extended to include board members or volunteers.

## **Example**

Legal expenses insurance is also bought in the event that a claim is made against the community development association in North Belfast. This will provide financial assistance if a claim is made against it and legal fees need to be incurred.

The association has a competent management committee and are all trustees. They are aware that being a trustee incurs the potential of being held liable if the

organisation is at fault in some way. A trustee indemnity insurance policy will protect trustees against personal liability.

As the association is expanding continually, recruiting new staff, etc, it thought best to indemnify itself against theft, fraud, misconduct or dishonesty by employees, volunteers or board members. It purchased a fidelity insurance policy to protect itself in the event that this should arise.

### **Motor insurance**

Where an organisation owns or operates motor vehicles, they must comply with the provisions of the Road Traffic Acts, which make it compulsory to have insurance against third party injury and property damage. It is usually advisable to arrange comprehensive motor insurance – which in addition to the requirement of the Road Traffic Acts also covers loss by fire, theft and collision damage to the charity's vehicles.

If trustees, employees or volunteers are using their own vehicles for the purposes of the organisation or on the business of the organisation, it is important to ensure that the insurance held by the owner of the vehicle extends to such use. Insurers need to be advised of this use.

There are special requirements in respect of minibuses used to transport people on a hire or reward basis and the organisation's insurance brokers should be able to give advice on this.

### **Travel insurance**

If the organisation is arranging trips outside of the country, then it is advisable to arrange travel insurance protection. Such insurance will provide cover for accidents, medical expenses incurred, loss or damage to baggage/cash, cancellation/curtailment costs and personal liability of the individuals. The medical expenses cover is particularly important whilst on trips outside of the UK and the limits for this should be adequate.

### **Refurbishment/renovation work at premises**

When major refurbishment/renovation work is being undertaken at the premises, there are insurance issues which arise. The insurance of the contractor should be checked out to ensure that it is adequate for the work being undertaken.

Contract conditions should be checked out to establish who is responsible for insuring contract works/materials/existing structures and contents. The organisation may be required to take out a specific contract works policy for the duration of the contract. In addition, the existing insurers would need to be advised of such work as a normal buildings/contents policy would not cover loss/damage caused whilst such contracts are being carried out.

## **Using external facilities such as outdoor pursuits centres**

It is common for organisations to arrange trips to facilities such as outdoor pursuit centres where adventure type activities can be undertaken. The organisations' normal public liability insurance would not usually cover such activities and it is therefore recommended that they obtain written confirmation from the centre that there is insurance protection in force, which will cover visitors to the centre.

### **Example**

The community development association in North Belfast has a minibus, but some of the staff use their own vehicles to carry out their duties on behalf of the organisation. It has a comprehensive insurance policy for the minibus. This insures it for accidents, fire, theft or damage. The association has consulted with the staff who use their own cars and has agreed that the responsibility for insurance lies with the individual car owners. The staff have extended their insurance cover use for business purposes. Evidence that staff have extended this policy should be submitted to the committee.

The association does not require travel insurance as it does not carry out work or activities outside the country. However, if it proposes to do this in the future, it would need to take out a travel insurance policy.

If the association decides to do any renovations or refurbishments to its current building, it would also need to take out a contract works policy to ensure that when work on the building is in process, any damage caused would be covered.

## **RISK ASSESSMENT**

### **Risk Management**

Risk management<sup>1</sup> is not only a useful technique for obtaining cheaper insurance but it is also a practical management tool which protects the organisation, its employees, service users and others who may come into contact with the organisation. Risk management should be regarded as an integral part of managing an organisation and should be regularly reviewed. A risk is the probability, high or low, of an accident potentially occurring.

*“A risk is a potentially damaging outcome of an event or situation, which could be external or internal to the organisation. It could have a major or minor effect, or it could have none. A responsible organisation anticipates the risks involved in its work, makes well-considered decisions on how to address them, and ensures that it acts on those*

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<sup>1</sup> More information on this topic is contained in NICVA's *Advice Note 13: Risk Assessment*.

*decisions to protect the people who could be put at risk and the organisation itself*, (NCVO, Managing Risk, 2001).

All staff including volunteers, service users and management committee members have the responsibility of assessing, analysing and managing risks. However, it is the management committee which has the ultimate responsibility. If an incident should happen, the committee would be held responsible. By carrying out risk assessments, policies and procedures can be put into practice to manage risks within the organisation.

Due to the nature of the work within the voluntary and community sector, it would be considered good practice for groups and organisations to incorporate risk management within their policies. It is essential that an organisation protects itself, its service users, staff and volunteers as well as minimising potential risks.

### **Step by Step Guide to Risk Management**

**Stage one** – develop or review your strategy. Plan for the future. Consider how your organisation and its work may change. Question how you may build on your weaknesses and develop your strengths.

**Stage two** – review your potential risks. Question what factors or operations may potentially pose a risk.

**Stage three** – research the evidence. Research information to make sound and valid judgements of risk factors.

**Stage four** – score and prioritise the risks. Prioritise the risks beginning with the one most likely to happen. Record it as high risk/low risk.

**Stage five** – devise your risk management strategy. Discuss and decide what the organisation intends doing to manage the risks identified. What precautions or strategies practised would avoid the risk of potential accidents?

**Stage six** – agree the risk management plan. Devise a realistic and manageable action plan and timetable. Include targets and information collecting procedures.

**Stage seven** – communicate about risk. Agree on who needs to be aware and be involved in the risk management of an organisation. Prepare policy documents, publicity, written procedures and reports, so everyone is involved and can contribute to minimising potential risks.

**Stage eight** – collect and monitor data. Monitor the progress of the organisation's risk management strategies to see if they are effective. Decide how the information is to be collected and look for issues that may need to be addressed or rectified.

**Stage nine** – review and renew your policies. By using the monitoring information collected, you can look at policies or strategies that may need to be updated or renewed.

Organisations should not take any unnecessary risks – each member/employee of the organisation should be aware of their responsibilities and encourage others to understand theirs. Make sure your organisation is covered by insurance against risks. There are many insurance policies to choose from which will protect your organisation from any potential liabilities. If possible, include in contracts a clause limiting the liability of the members of the committee to the extent of the assets of the organisation. Incorporation when appropriate can protect a company's members against personal liability in many instances. But beware, if you sign documents, especially contracts or leases, without making clear you are signing on behalf of a company, then you may be held liable if the obligations in the contract are not met. Giving personal guidance undermines any protection which 'limited liability' offers.

The management committee should ensure that a risk assessment is completed on a yearly basis. However, it is an ongoing process of evaluation. If a new service or activity is introduced, an assessment should be completed to identify the potential risk. It would be beneficial to an organisation to establish a good dialogue and relationship with the insurer. Changes, updates, etc, can be forwarded to the insurer - again minimising potential risks.

## **WHAT ARE RISK ASSESSMENTS?**

A risk assessment is self-explanatory. It is an organisation assessing the potential risks connected with the services and activities that it provides to its service users. It examines the work that an organisation does and the possible harm that it may cause to its employees or service users. Once a risk assessment has been completed, measures can be implemented to minimise the potential harm arising from the work or services provided by the organisation. It reduces the risk of an accident happening and the possibility of the organisation being held liable.

When an organisation is carrying out risk assessment, it should include:

- Information that an organisation possesses ie data protection. This could potentially lead to breach of confidentiality.
- Risks relating to the use of computers and electrical equipment and any machinery.
- Risks relating to the unreliable income of money through events and fundraising schemes.
- Risks to the organisation's reputation, ie defamation of the organisation's name, etc.

The voluntary and community sector needs to develop and build confidence within the insurance industry. They should be aiming for high standards and quality standards in line with the business and commercial sector.

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