Insurance and risk management for community organisations

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Contents

Part 1

When should a community organisation consider risk and insurance?

When should a community organisation consider risk and insurance?

Thinking about 'risks', 'insurance' and related legal issues is important, but doesn't have to be a scary or negative process. All activities in life involve risk and, of course, there are some risks associated with the activities undertaken in all community organisations.

If your community organisation understands these risks, there are many things that the people involved in your community organisation can do to eliminate risks or minimise the chance of them occurring.

Where the potential risks can't be avoided, your community organisation can look at the insurance options that may be available to protect against those risks. Essentially, insurance is a way of managing risks your organisation can't avoid or minimise, by paying another party (the insurer) to bear the costs if certain risks eventuate.

Common types of insurance include (some of these will be discussed in more detail in this guide):

Protects	Type of insurance
Volunteers	Volunteer personal accident insurance
Employees	Workers Compensation insurance
Committee members	Directors and officers liability insurance
Members of the public and events	Public liability insurance
Experts or advisors	Professional indemnity insurance
Property and assets	Building contents/occupiers/fraud insurance
Selling goods or products	Product liability insurance
Vehicles	Motor vehicle insurance

There are several key points in time when organisations should consider risks, risk management and insurance. Risks can expose your organisation, and sometimes people, to liability that can have serious financial and reputational consequences.

A community organisation should consider its risks:

- when it initially sets up
- when it starts offering services or products, or changes the type of services or products offered
- when it starts employing staff or using volunteers

- when it's hosting or running events
- when it starts using new premises
- when it enters into relationships with other organisations like partnership agreements or services agreements
- when there are changes to the laws that affect the organisation
- when unexpected incidents have occurred that raise liability issues, and
- as good risk management practice. When the organisation's circumstances change and at least once a year before the organisation's AGM, the organisation should do a full audit to ensure that risks are identified and addressed, and that insurance cover is still meeting the needs of the organisation. New risks should be identified consistently throughout the year whenever there is a new event or substantive change to the organisation's operations and steps taken to ensure these risks are managed as and when they are identified

Many community organisations establish a risk committee that is responsible for undertaking this analysis, and reporting back to the board or committee.

Part 2

What are the risks of running a community organisation?

What are the risks of running a community organisation?

If you are involved in a community organisation, no matter what size, it's a good idea to spend at least a short amount of time discussing two simple questions:

1. **What are the risks involved in the operation or activities of our community organisation?**
2. **What can we do to avoid these risks, or at least minimise the chance they will happen?**

Asking these questions is good practice and could save your organisation a lot of time and money in the future.

Risk assessment doesn't have to be a formal process, although if you are a large organisation, or one that conducts higher risk activities (like children's camps, festivals or events and food services) you may need to document a formal risk management plan).

For some community organisations with low risk activities, assessing risks can simply mean setting aside an hour at a committee meeting to consider any risks that might occur during the operation or activities of the organisation.

When thinking about the risks which arise from the operation of your organisation, focus specifically on the risks which may arise from the involvement of those 'internal' to the organisation, such as members, staff or volunteers.

When thinking about the activities of the organisation, give particular consideration to how your organisation's external interactions, such as with the public or regulatory bodies, may raise risks.

Examples may include:

- someone (a volunteer, employee, member of public) slips in your building and injures themselves
- someone within your community organisation steals your organisation's money
- someone has an allergic reaction to the food you sell or serve
- you get robbed and all your equipment is taken
- your building floods or is burnt down and you lose all your records
- an employee undertakes activities without authorisation
- your computer equipment fails or you get a virus and lose all your documents and client records, or
- one of your volunteers has a car accident while out visiting a client

Tip

If you want a full list of possible risks, there are a number of risk identification tools you can use, some of which have been designed specifically for community organisations.

For example, see Volunteering Australia's risk management tool for volunteer involving organisations 'Running the Risk?

Additional considerations under legislation relevant to your legal structure

Incorporated associations

Laws about incorporated associations vary between the states and territories.

If your community organisation is incorporated you need to consider:

- the legislation in each of the states and territories under which your organisation is incorporated, to find out what liabilities (legal responsibilities) your office holders have if they breach their duty of care to members of the public
- what indemnities your organisation is required to provide to those office holders under statute or under the terms of its rules, constitution or any agreement with your office holders. An indemnity is a document or agreement in which a person or organisation agrees to pay for the liabilities or legal costs of another person, if something goes wrong, and
- whether your organisation has the resources to pay back or reimburse office holders for liabilities they incur to third parties, as a result of breaches of their obligations as office holders

Note

None of the state or territory Acts require incorporated organisations to take out insurance to reimburse their office holders for liability incurred by them.

However, taking out insurance cover is one way of managing the risk presented by providing an indemnity to office bearers. If your community organisation can't afford to meet any such liability you should consider whether purchasing insurance is an appropriate response to this risk (see the insurance section of this guide).

The legislation regarding office holders' liability and compulsory indemnities is summarised below.

Jurisdiction	Governing Act	Liability and indemnity provisions
ACT	*Associations Incorporation Act 1991* (ACT)	Section 51 states that an officer or a member of an incorporated association is not liable to contribute to the debts or liabilities of the association only because of being a member or officer, except as otherwise provided by this Act or the rules of the association. For example, a member of the committee will be liable where they knowingly fail to take all reasonable steps to ensure that the association has complied or is complying with its obligations under the Act.
NSW	*Associations Incorporation Act 2009* (NSW)	Section 30B states that a thing done by a committee member, or by a person acting under the direction of a committee member, does not expose the committee member or person acting under their direction to any liability if it was done in good faith for the purpose of exercising their functions under the Act.
NT	*Association Act 2003* (NT)	Section 14 states that a member of an incorporated association is not liable, except as provided in the constitution of the association, to contribute towards the payment of the debts or liabilities of the association. However, as stated in section 105, associations cannot include a provision in their constitution or a contract that exempts or indemnifies an office holder from liability to the association that would otherwise attach to them in relation to negligence, default, breach of duty, or breach of trust.

QLD	*Associations Incorporation Act 1981* (QLD)	Section 21 states, except as may be provided by the rules of an association, a member is not liable to contribute to its debts and liabilities. Section 27 states that a secretary, member of a management committee or member of an incorporated association, is not personally liable, except as provided in the rules of the incorporated association, to contribute to the debts and liabilities of the incorporated association.
SA	*Associations Incorporation Act 1985* (SA)	Section 39A states a number of duties officers of an incorporation association must comply with, including the duty to take reasonable care and diligence in the exercise of his or her powers and the discharge of the duties of his or her office (section 39A(4)). In the event any of those duties are breached, the officer may be liable to the association for any profit made by him or her and for any damage suffered by result of that contravention, may incur a monetary penalty, or may face imprisonment. Section 39B(1) states that associations cannot include a provision in their constitution or a contract that exempts or indemnifies an office holder from liability to the association if they are negligent, have defaulted, breached a duty, or breached trust (if included, it would be considered void).
TAS	*Associations Incorporation Act 1964* (Tas)	Section 27 states that a member of an incorporated association is not liable, except as provided in the rules of the association, to contribute towards the debts or liabilities of the association.
VIC	*Associations Incorporation Reform Act 2012* (Vic)	Section 52 states, except as provided by its rules, a member or secretary is not liable to contribute towards the debts or liabilities of the association, merely because of that position. Section 87 states that an incorporated association **must indemnify** each of its office holders against any liability incurred in good faith by the office holder in the course of performing his or her duties as an office holder.
WA	*Associations Incorporation Act 2015* (WA)	Section 19 states a member or trustee is not by reason of that position liable in respect of liabilities of the association. Section 159 states that a person is not liable for anything that the person has, in good faith, done or omitted to do in the performance or purported performance of a function under this Act (or repealed Act).

Part 3

What measures can your community organisation take to avoid or minimise risk?

What measures can your community organisation take to avoid or minimise risk?

There are many measures your community organisation can take to minimise the chance that a risk will occur, and the impact on your community organisation if the risk does occur.

While insurance is one possible measure your community organisation can take to manage risk, there are many more options to consider.

For example, imagine that someone broke into your organisation's offices and stole the computers. Having contents insurance may help to buy new computers, but it won't help to replace the data and files on your computer system, including valuable client information.

Your organisation may want to make sure that the building has adequate security (to minimise the risk of break-ins occurring in the first place), and it may consider ensuring that data is regularly backed up and taken off-site (to minimise the impact if the risk occurs).

Tip

Your organisation may wish to include 'Risk Management' as a standard agenda item at meetings of the governing body of the group, and meetings of the staff or volunteers.

Risk management doesn't need to be a long discussion. It may just be a chance for your organisation to discuss ongoing risks and whether the current measures used to manage those risks are working.

It is also great opportunity to think about whether any new risks have arisen. For larger organisations, you may wish to have a risk management sub-committee of your board or committee of management.

There are many measures to consider when seeking to minimise risks, some of which have been included below:

- creating a safe physical environment
- safety when providing goods and services to the public
- staff and volunteer safety guidelines
- computer and electronic security, and
- financial controls

Creating a safe physical environment

Place of operation

Your community organisation should carry out a regular inspection of the places in which it operates – this may include locations such as buildings, offices, halls, ovals or club rooms. An inspection of the inside and outside of the relevant premises can help you to identify safety issues and potential risks for staff, volunteers, contractors, clients, and the public. Check that all paths and steps are non-slippery, clear of obstacles and well signposted. All work surfaces should meet the required standards and be properly maintained.

Equipment or machinery

If your community organisation uses machinery or equipment, you should ensure the machinery is safe, and regularly tested. It's important to document instructions for use of equipment and train staff and volunteers in its safe use. Testing and maintenance records may need to be kept. Only people who are trained and authorised to use certain equipment should be allowed to use it. Public access to equipment and machinery should be restricted where necessary.

Vehicles

If your community organisation has vehicles, they should be well-maintained and regularly serviced. Drivers should be properly licensed, and limits should be set on how long or how far someone can drive in a given period. If you regularly transport particular equipment (for example, oxygen tanks), appropriate restraints should be provided in vehicles.

Fire

Your community organisation must protect its premises and staff in the case of fire by having active fire alarms, sprinklers and extinguishers in place. You should also have a system in place that ensures this equipment is regularly checked (perhaps linking this with a regular event such as your AGM). Your organisation should establish an emergency or evacuation plan and make sure staff and volunteers are aware of, and practice it.

Crime and vandalism

You can improve how you protect your organisation's premises against theft and criminal damage through measures such as installing locks, outside lighting, alarms, surveillance and security systems.

Events

Many community organisations hold fundraising events, festivals, conferences. As this is a place of operation, it's important to ensure these events are held in a safe physical environment. Considerations for avoiding risks at these events may include:

- crowd or traffic controls
- alerting local authorities and obtaining the relevant permits
- planning an emergency evacuation procedure in case of fire (including clear exit signs), and
- ensuring that any equipment used meets the relevant safety standards

Related Not-for-profit Law resources

For more information about hosting events as a community organisation, see our Events webpage.

For more information about work, health and safety and best practice in this area, see our Work Health and Safety webpage.

Providing goods or services to the public

Offering food and or drink

Any food that your organisation makes, serves and stores that is for the public, must be free from contamination. There are regulatory requirements for food storage and handling set out by local and state governments that your organisation should be aware of. If your community organisation serves alcohol, you should ensure that it has any required licences. It must also comply with any policies covering the responsible service of alcohol, must know how to deal with people who are intoxicated.

Related Not-for-profit Law resources

For more information about providing food and drink to the public, see our Events webpage.

Providing services or advice

If your community organisation provides services or advice, these services or advice must be reliable, accurate and safe. All the people involved in your organisation including, but not limited to, members of the governing body, staff and volunteers must be properly trained and supervised, competent and aware of the legal obligations they are subject to when carrying out their duties.

There are some areas where it is against the law for anyone but a qualified professional to give advice. For example, legislation in each state makes it an offence for anyone other than a lawyer with a current practising certificate to provide legal advice.

Staff and volunteers should be encouraged to report incidents of bad practice to management. Your community organisation may wish to write a brief document that sets out a procedure by which the organisation will effectively investigate such complaints.

Computer and electronic security

Many community organisations store important data and records on computer equipment either belonging to the community organisation, or its members, clients and staff. Measures that can be taken to safeguard information include:

- password protection of computers
- back-up of computers, and storage of the back-up drive off site
- adequate virus and firewall protection, and
- policies that limit access to confidential data or personal information

Staff and volunteer safety

Staff screening

Your community organisation should have policies for screening staff and volunteers, particularly if your organisation provides services to the public. Screening could include interviews, reference checks and police checks.

If anyone in your community organisation is involved in working with vulnerable people, particularly children, each state and territory has specific legislation that makes it mandatory that they apply for, and pass or register for statutory checks and police checks, as detailed in the table below.

Jurisdiction	Governing legislation	Authorisation process or documentation required to work with children
ACT	*Working with Vulnerable People (Background Checking) Act 2011* (ACT)	Working with Vulnerable People Registration

NSW	*Child Protection (Working with Children) Act 2012* (NSW)	Working with Children Check
NT	*Care and Protection of Children Act 2007* (NT)	Working with children clearance (Ochre Card)
QLD	*Working with Children (Risk Management and Screening) Act 2000* (QLD)	Working with Children (Blue Card)
SA	*Children's Protection Act 1993* (SA)	Working with Children Check
TAS	*Registration to Work with Vulnerable People Act 2013* (Tas)	Working with Vulnerable People Registration (Working with Vulnerable People Card)
VIC	*Working with Children Act 2005* (Vic)	Working with Children Check
WA	*Children and Community Services Act 2004* (WA)	Working with Children Check

Background checks in relation to working with children are generally not transferable between states and territories, so the appropriate checks must be obtained for each separate jurisdiction by any employee or volunteer who will work across different states and territories.

Only Tasmania and the ACT require a pre-screening process of employees or volunteers who work with 'vulnerable persons' – that is, children or individuals aged 18 years and above who are or may be unable to take care of themselves, or are unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability or any other reason.

Related Not-for-profit Law resources

For more information about the legal issues relating to the screening of staff or employees, see our webpage on background checks.

Other safety measures

If your community organisation is providing services to the public, you should also think about the kind of measures that need to be put in place to protect staff (including volunteers) from harm – this could be harm from the public in general or harm from those you are providing services to.

Staff and volunteers should feel comfortable that they can safely perform the tasks and responsibilities they have been allocated. If they don't, they should be encouraged to make this known as soon as possible.

Financial controls

Nearly all community organisations have to deal with money. This could be small amounts (the $10 membership fees from all 10 club members or the takings at the end of a sausage sizzle), or large amounts (such as a government grant or the proceeds of a major fundraising appeal).

No matter what amount of money your community organisation has, you should consider having guidelines in place to ensure that money is handled appropriately.

Some people involved in community organisations may be reluctant to have guidelines or policies in place to deal with handling money.

Some common feelings may be:

- 'we all know and trust each other here'

- 'it's too bureaucratic to have to write down all expenses'
- 'we hardly have any money, it's not worth it', and
- 'it's rude or embarrassing to have to ask employees or volunteers for receipts'

These concerns can easily be answered by the following points:

- while all of the members of the community organisation may currently know each other well, this might not always be the case. Writing down and following money handling policy will equip the organisation to follow a standard process as it deals with money
- the amount of money a community organisation has is irrelevant for the purposes of good financial practices. If your organisation is receiving money from the public or from members, no matter how small the amount, it needs to account for that money. Part of the responsibility of being a not-for-profit organisation is to ensure that all moneys are accounted for and re-invested into the operations of the organisation
- financial policies and procedures work to protect people (volunteers and employees) from being wrongly accused if funds go missing
- the directors or committee members of your organisation have a legal duty to ensure that the organisation is financially responsible. They may be personally liable if it's not acting in a way that is financially responsible
- if the community organisation is incorporated, it will be required to provide annual accounts to the regulator. In some circumstances these accounts will need to be audited. Having basic written records of money that has been received and spent by the organisation is necessary for this reporting, and
- reports are often required to be provided to funders and to attract funding

Think about establishing a set of financial procedures and training staff and volunteers to follow the procedures. Obviously the more money you are dealing with the more stringent the measures should be.

Example

Some basic examples of financial control measures for a small community organisation include:

- restricted access to online banking accounts
- requiring authorisation for certain transactions and levels of expenditure, and
- keeping detailed ledgers of all financial transactions

Part 4

Insurance basics

Insurance basics

Insurance is another way that a community organisation can seek to protect itself from financial loss as it goes about its activities.

Insurance can also help to protect people involved in a community organisation (such as the board or committee of management and the organisation's officers, employees and volunteers), by reducing their exposure to liability resulting from their activities on behalf of the community organisation.

Insurance allows your organisation to transfer particular risks that it can't avoid or minimise (and likely can't afford) to an insurance company. The insurance company agrees to take on the risk, and to pay if things go wrong. The insurance company agrees to do this for a fee (often known as a premium) and only on certain terms and conditions.

What is an insurance policy?

An insurance policy is the document that sets out the terms and conditions on which the insurance company agrees to insure your community organisation against particular risks (for a fee).

An insurance policy is a contract – a legally binding agreement between you and the insurance company.

The written terms of an insurance policy are very important. Your community organisation can only claim on your insurance policy if the thing that goes wrong is covered by your insurance policy and provided the organisation follows the procedures (like notification) required by the policy.

For example, if financial loss as a result of flood is not covered by your insurance policy, the insurance company doesn't have to pay to fix damage caused by a flood. If the insurance policy only covers financial loss to the amount of $500, this will be all that the insurance company has to pay you, even if your community organisation suffers a loss of $5,000. If the insurance policy only covers your organisation for its activities in one state or territory, any liability that occurs in another state or territory (for example when your group travels interstate to go to a conference) may not be covered.

Your organisation needs to make sure it understands exactly what is and isn't covered in the insurance contract.

What should we look for in an insurance policy?

Insurance can be costly. If your community organisation is going to spend money on a policy it should make sure that the cover is suitable, so it can claim on the policy if something goes wrong.

In particular, look at:

- what the policy covers and in what circumstances (the terms and conditions of the policy) and whether there are any exclusions (events, actions or people) that are not covered by the policy (for example – Does it cover volunteers? Does the policy have any age limits which may affect a claim?)
- how much the insurer agrees to pay for each different event (these amounts are sometimes capped)
- if there is any 'excess' or 'deductible' (an amount your organisation may have to pay to claim on the policy or the amount paid by the organisation before the insurer will make any payment)
- whether there are any waiting periods before your organisation can make a claim, and
- how much the insurance policy will cost you each year (often known as 'a premium')

Tip

In Australia, there are national laws, like the *Insurance Contracts Act 1984* (Cth) and *Financial Services Reform Act 2001* (Cth) which regulate the way that insurance policies are sold and the information that insurers (and others who sell insurance on behalf of insurers) must give your community organisation. If your organisation has a complaint or concern about an insurance contract that it cannot resolve with the insurer, it can contact the Australian Financial Complaints Authority (**AFCA**).

What does our community organisation need to do under the insurance policy?

An insurance policy is a contract – a legally binding document between you and the insurance company. Your community organisation will have obligations (things that it has to do) to make sure the contract is and remains valid. Make sure you understand the terms and conditions of the policy, so that you know what these obligations are. Some standard obligations are set out below.

Provide full and accurate information

An organisation has a duty to disclose to the insurer, before the insurance contract is entered into, every matter which the organisation knows (or a reasonable person in its circumstances could be expected to know) to be relevant to the insurer’s decision to accept the risk and on what terms.

Your organisation needs to answer all questions in the insurance application honestly and accurately. If you are not sure about a question, discuss this with your insurer or broker.

If you give the insurer the wrong information, the insurer may be legally entitled to avoid paying your organisation’s insurance claims. There are also provisions in most insurance contracts that allow the contract to be avoided (ended) if the information you have provided is deliberately incorrect (fraudulent).

Keep your insurance up to date

It’s just as important (particularly when your organisation renews an insurance policy) to tell your insurer as soon as possible if your circumstances have changed.

Tip

It’s a good idea to list ‘insurance’ as an agenda item for discussion at least once a year at a meeting of the board or committee of management of your community organisation. Your organisation could use this opportunity to review its insurance policies and decide whether the cover is adequate or needs to be reviewed or changed. It may also be a good idea to have one person responsible for insurance, who is required to review your organisation’s insurance policies.

Notify of incident

Some insurers may require you to notify them of an event or incident that may give rise to a claim within a certain time period. Some policies require notification of a claim or circumstances that may give rise to a claim before the policy expires. Make sure you know what the policy requires you to do if there is an incident, and how to make a valid claim on your insurance. An insurance broker can assist your organisation with the notification process.

Part 5

Is our community organisation required to get insurance?

Is our community organisation required to get insurance?

Even if your community organisation has measures in place to avoid or minimise risk, your organisation may still need to get insurance.

The three main questions your community organisation needs to ask are:

1. Is our organisation required by law to get insurance?
2. Is our organisation required to get insurance under a contract or agreement that it has entered into?
3. Even if not required by law or contract, does our organisation need insurance?

These matters are discussed below.

Is our community organisation required by law to have insurance?

In Australia, there are national and state and territory laws which make it compulsory for people or organisations, including community organisations, to get insurance in certain circumstances.

The most common two examples are:

- **workers compensation insurance** – if your community organisation is an employer, the law requires your organisation to get workers compensation insurance for its employees, and
- **third party motor vehicle liability insurance** – if your community organisation owns, leases or uses motor vehicles, it's required by law to insure against third party injury liability. In all states and territories, except Queensland and New South Wales, this insurance is provided when you pay to register your vehicle. In Queensland and New South Wales, you will need to obtain this insurance and then provide evidence that you have it in order to register your vehicle.

Further information about workers compensation insurance and third party injury motor vehicle insurance is provided below.

There may also be other laws that require community organisations operating in a particular field (such as housing) or a particular profession (such as legal or health) to have a certain kinds of insurance. You should seek legal advice about whether there are any laws that might require your community organisation to take out a specific type of insurance.

Is our community organisation required to have insurance under a contract or agreement?

From time to time, a community organisation might enter into an agreement or contract with another party, which may require the community organisation to take out insurance.

For example:

- if your community organisation wants to hire equipment, the hire agreement (which is a contract) may include a requirement that your organisation has **building and contents insurance** and **public liability insurance**
- if your organisation is going to lease an office, building or land, the lease agreement (which is a contract) may require your organisation to have **public liability insurance**
- if your organisation signs an agreement to supply services (which is also a contract) the agreement may require your community organisation to have **public liability, product liability** and **professional indemnity insurance.**

Further details about all of these types of insurances are set out below.

Before your community organisation signs a contract, it's important to understand whether the contract requires your organisation to have insurance. If you need to purchase insurance, the policy you choose must satisfy the requirements under the contract.

Some agreements may include other insurance requirements, for example that the insurance policies remain in place for the duration of the agreement. If your organisation doesn't take out insurance that aligns with the requirements of the contract, it may be in breach of the contract and at risk of a claim for loss or damages.

Every time your organisation considers entering into a contract (which may be called an agreement or a lease or any other name) read the contract carefully. It may be that the requirement to take out insurance is easily missed among contractual requirements.

If the agreement does require your organisation to get insurance, read the terms carefully at it may include specifications such as:

- the type of insurance you need
- how long you need to be insured for
- the amount it must cover, and
- who must be covered by the policy (including whether the party your organisation is contracting with is to be a named party on the policy or have its interests noted on the policy)

If you have any doubts, or the requirements are unclear, seek legal advice. If you are obliged to arrange insurance covering other parties, make sure the policy is consistent with your obligations.

Case example

In 2005, an equestrian association (an incorporated association) was organising an equestrian championship event. It entered into a contract with an equestrian centre ('the centre owner') to hire their venue for the event. A condition of the contract was that the equestrian association was to make sure that the centre owner was named in their public liability insurance policy.

The association didn't name the centre owner as an interested party in its public liability policy. At the event, two people were injured as a result of a hazard at the venue. The matter went to court and the judge found that the equestrian association was liable to pay the substantial medical costs for the people's injuries, because it had breached its obligations under the contract.

NSW Arabian Horse Association Inc v Olympic Co-ordination Authority [2005] NSWCA 210

Tip

Even if the agreement doesn't require your organisation to take out insurance, think about whether it would be a good idea to do so. For example, some contracts might require your organisation to 'indemnify' another person or body for any loss or damage caused to them or another party. If you agree to this, you may be agreeing to pay for damage that may occur as a result of your organisation's actions or the actions of others. You may need to seek advice about whether you can get insurance to cover your organisation for these risks.

Other times when a community organisation might wish to get insurance

Even if not required by law or by contract, your organisation should consider whether it needs particular insurances, depending on its activities and operations.

For example, your organisation may have workers compensation insurance (as required by law) and public liability insurance (because it is required by a contract or is good practice), but these insurances may not cover certain actions of the directors or committee of management members of your organisation. In this case, your organisation may wish to take out directors and officers insurance, in addition to the other insurances, to cover this risk.

Your organisation may wish to take out insurance if it recognises that:

- it faces certain risks (for example, the ones suggested that our organisation list above)
- those risks can't be adequately avoided or sufficiently minimised by adopting measures (such as the simple ones discussed above), and
- the organisation can't afford to pay the amount of money that would be involved if the risk eventuated

To determine what risks your organisation faces (and what can be done to manage these risks) it should undertake regular and ongoing risk assessments in relation to its activities and the roles of its workers.

The following table is one example of a simple risk management tool.

Identify		Evaluate		Manage		Review
What is the risk?	What could happen if the risk eventuates?	Rate: How likely is it that the risk will happen?	Rate: Possible risk impact?	List actions that can be taken to avoid or minimise the risks	Priority	Who is responsible? How will it be reported? How often will it be reviewed?

For more risk management tools, see Volunteering Australia's 'Running the risk' publication.

Tips

As insurance is costly, and insurance itself will not provide absolute protection against covered risks, a community organisation should also implement all other reasonably available and cost effective measures to avoid or minimise risk, as well as considering insurance.

Insurance is often a complex issue for community organisations, and it's recommended that you contact an insurance broker who has experience in arranging insurance for your type of organisation to discuss your particular needs.

Part 6

Which insurance is right for our community organisation?

Which insurance is right for our community organisation?

There is no 'one-size-fits-all' insurance program for community organisations.

Instead, the insurance a community organisation is required to hold must be informed by, among other things:

- its activities and operations
- its preparedness to manage risks in ways other than insurance
- the legislative and regulatory environment in which it operates
- its contractual obligations owed to others, and
- the costs and benefits of particular types of insurance

The costs of insurance can make it difficult for community organisations to insure themselves adequately.

The following suggestions may be useful for some community organisations to reduce the cost of insurance.

Get advice before you buy

It's a good idea to get some advice about your organisation's insurance needs.

Peak bodies and industry associations are often good sources of advice on appropriate insurance packages for community organisations. You may also wish to ask other community organisations (which operate in the same field as yours or equivalent community organisations in other states) about their insurance plan.

Many insurance companies, insurance agents and insurance brokers offer risk management and insurance advisory services.

Tip

Be careful when seeking advice directly from insurance companies (directly) or insurance agents.

Both the company and the agent will advise your community organisation about the policies available from that insurer only. By contrast, insurance brokers are not employed by the insurer so may advise you about insurance policies available from a range of companies, and may be able to help you get a better deal. Insurance brokers are legally required to represent your interests.

In either case, the law requires that insurance agents and brokers be licensed and that they provide you with certain information about the policies they are advising you on (including whether they are paid by the insurer, including commissions).

Check whether a 'group' or 'blanket' scheme is available

Before taking out insurance, it's a good idea to consult any peak bodies, funding bodies, umbrella bodies, parent or related community organisations about insurance coverage. They may have existing 'group' insurance arrangements that you can join, and these are often cheaper than taking out independent insurance.

For example, if your community organisation operates within a group or hierarchy of related community organisations, it may already be covered by a group insurance program. Under group insurance, the premium and insurance administration costs are likely to be less. Also the insurance cover may well be more comprehensive than might otherwise be the case due to increased buying power of the group, as opposed to an individual community organisation.

If you are eligible to be covered by a blanket or government scheme, it's important to:

- find out what your organisation needs to do to make sure it is covered by the scheme, and
- understand the extent of the insurance cover (ie. in what circumstances your organisation can claim on the insurance) so you can decide whether it is enough, or whether your organisation may need additional insurance

Examples

The National Association of Community Legal Centres (**NACLC**) is the peak body for community legal centres in Australia. NACLC has negotiated a national professional indemnity insurance policy that its member community legal centres can apply to be covered by.
Community organisations that are funded by the Victorian Department of Health and Human Services (**DHHS**) under service agreements may be eligible for insurance arranged by DHHS.

Shop around

If there is no group or blanket insurance policy available for your community organisation, it's a good idea to shop around for quotes to compare the different insurance policies available.

When doing so, it's critical for your organisation to pay very close attention to precisely what is being offered by an insurer. Lower prices often reflect lesser cover. Subtle differences between policies can often mean the difference between comprehensive and inadequate protection.

Try to bundle

If your organisation needs a few different types of insurance, you may be able to get a better price by buying an insurance package.

Some insurance agents and brokers have 'packages' that they have put together to suit community organisations. It may be worthwhile asking your agent or broker whether they offer any insurance packages tailored for community organisations, or any discounts for multiple policy purchases. You may be able to liaise with other organisations (for example, all the organisations that rent one hall) to bring more business in exchange for a better package.

Part 7

What types of insurance are available?

What types of insurance are available?

The most common types of insurances covered in this section are:

- workers compensation insurance
- volunteer personal accident insurance
- motor vehicle insurance
- public liability insurance
- professional indemnity insurance
- buildings and contents insurance
- directors and officers liability insurance, and
- fraud insurance

This section sets out the main types of insurance that may be relevant to community organisations and the basics of what those policies often do and don't cover.

The following summaries offer very general information about each kind of insurance.

The terms of insurance policies vary widely between different insurance companies. Your organisation should read the terms of any insurance policy it is considering very carefully.

It's important that you understand what is and is not covered, and on what conditions, in the terms of any insurance policy. This information must (under Australian law) be contained in a Product Disclosure Statement – a plain English document that gives a description of features, benefits, cost and risks associated with the policy. If any of the terms are unclear, contact your insurer or broker to seek clarification.

Workers compensation insurance

All states and territories have laws that require community organisations that employ staff under employment contracts, to have workers compensation insurance to cover the organisation's employees.

The specific requirements and level of insurance cover in each state or territory vary, so you will need to check the legislation in the state or territory where your organisation is located. Note that your organisation may need to check the legislation in other states and territories if your organisation has employees in multiple jurisdictions.

Jurisdiction	Compensation authority	Governing Acts
ACT	WorkSafe ACT	*Workers' Compensation Act 1951* (ACT)
NSW	State Insurance Regulatory Authority (**SIRA**)	*Workplace Injury Management and Workers Compensation Act 1998* (NSW) *Workers' Compensation Act 1987* (NSW)

NT	NT WorkSafe	*Return to Work Act 1986* (NT)
QLD	WorkCover Queensland	*Workers' Compensation and Rehabilitation Act 2003* (QLD)
SA	ReturnToWork SA	*Return to Work Act 2014* (SA) *Return to Work Corporation of South Australia Act 1994* (SA)
TAS	WorkCover Tasmania	*Workers' Rehabilitation and Compensation Act 1988* (Tas)
VIC	WorkSafe Victoria	*Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)
WA	WorkCover WA	*Workers' Compensation and Injury Management Act 1981* (WA)

What does this insurance cover?

Workers compensation insurance provides benefits to an employee, which typically include lost wages and medical expenses, if an employee is injured at work or becomes sick due to their work.

What is not covered?

Workers compensation insurance cover is dependent on the jurisdiction.

Generally, it will not cover any person who is not employed by your community organisation under an employment contract or contract of service. So, volunteers, members, directors and officers (who are not employees) are generally not covered. Remember that a person in your organisation may hold multiple roles (for example, an employee that is also a volunteer director) and it should be clear to that person when they are and aren't covered by this insurance.

There are other types of insurance that are available to cover these people (discussed further below). Most independent contractors and consultants will not be covered by workers compensation insurance, and you should make sure that any contractor or consultant that your community organisation uses has their own insurance. In the event that they can be considered to be a 'worker' for the purpose of the relevant legislation, they may be covered by workers compensation insurance.

However, it's important to note that the workers compensation laws in certain states and territories may provide that in some cases, a worker may be deemed to be an employee even if, applying the ordinary meaning, that worker is an 'independent contractor'. You may need to talk to a lawyer or your insurer about this issue.

Why might our community organisation need this cover?

There are slightly different tests in each jurisdiction to determine whether a person is a 'worker' for the purpose of workers compensation law. Generally, most workers who are employed under a contract of service (whether express, implied, oral or in writing) will be covered by the workers compensation scheme. Therefore, if your community organisation has employees, it will most likely be required to obtain workers compensation insurance for the majority of its employees.

What else should our community organisation be aware of?

Substantial penalties can be imposed on employer organisations that fail to comply with workers compensation legislation.

Volunteer personal accident insurance

It's important to remember that:

- workers' compensation insurance doesn't cover volunteers (exceptions are rare), and

- public liability insurance (see discussion below) will usually cover injuries a volunteer causes to others but may not cover injuries suffered by volunteers

As a result, volunteers often fall between the cracks as they aren't covered by an organisation's insurance policies if they suffer injuries in their role.

Check your organisation's existing insurance policies to find out whether your volunteers are covered (both for harm suffered by volunteers themselves and harm suffered by others as a result of your volunteers' action or inaction). If in doubt, call your insurer or broker.

Unlike the workers' compensation scheme, there is no legislation that requires an organisation to obtain personal accident or volunteer insurance. But your organisation may consider taking out a volunteer personal accident insurance policy to make sure your volunteers are covered for any injuries they sustain while volunteering. Whatever your organisation decides, let all volunteers know what they are covered for and what they aren't, and the process for making a claim. If there are any extra costs payable, make sure you are clear about whether the organisation or person will have to pay.

What does this insurance cover?

Volunteer personal accident insurance will cover members and volunteers of a community organisation for expenses incurred in the event of accidental injury, disability or death which occurs while the volunteer is doing work for the community organisation.

In the event the volunteer is employed and can't work in their usual occupation as a result of their injury, the insurance policy will usually (but not always) extend to cover loss of income. It's recommended that you check with your insurer or broker.

What may not be covered?

It's important to make sure any volunteer insurance policy appropriately covers the type of volunteers engaged by your community organisation. Some volunteer insurance policies may have age restrictions, or may specify certain types of volunteers who are excluded from the policy, such as student placements. It's also important to understand that there may be some limitations on when benefits under the policy will become payable, known as 'waiting periods'. These differ from policy to policy. You should investigate and be aware of any waiting periods that may apply.

Volunteers insurance will only cover non-Medicare medical expenses (for example, dental, ambulance, chiropractor, physiotherapy). Insurers will not (and can't under legislation) cover any out-of-pocket hospital expenses that have a Medicare component.

Why might our community organisation need this cover?

Workers compensation insurance will only cover your organisation's employees. You may wish to think of volunteer personal accident insurance as being like 'workers compensation' insurance for your volunteers.

Unlike workers compensation, it's not compulsory for a community organisation to take out personal accident insurance for volunteers. However, because volunteers are a central part of many not-for-profit community organisations, it's useful to ensure that both the organisation and the volunteers are protected in the event of an accident.

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Note

The National Volunteering Standards promote best practice among volunteer involving organisations and state that:

- processes ought to be in place to protect the health and safety of volunteers, and
- organisations should have appropriate insurance for volunteer personal injury and liability

Motor Vehicle insurance

Each state and territory has legislation that makes it compulsory for your community organisation to insure any motor vehicles it owns or leases against third party injury liability (injuries to members of the public that are caused by an accident involving a motor vehicle). Generally this type of insurance is referred to as compulsory third party insurance (**CTP insurance**).

In New South Wales and Queensland, it's a legal requirement to obtain CTP insurance before registering a motor vehicle, while all other states and territories include CTP insurance as a part of the motor vehicle registration so no separate policy is required.

Jurisdiction	Compensation authority	Governing Acts	How to obtain CTP insurance
ACT	ACT CTP Insurance Regulator	*Road Transport (Third-Party Insurance) Act 2008* (ACT)	CTP insurance is compulsory and must be paid at the time of registration. In the ACT there are select insurers who are licensed to issue CTP insurance.
NSW	State Insurance Regulatory Authority	*Motor Accidents Compensation Act 1999* (NSW) *Motor Accidents Act 1988* (NSW) *Motor Vehicles (Third Party Insurance) Act 1942* (NSW)	CTP insurance otherwise known as a 'Green Slip' must be purchased separately before your motor vehicle can be registered. The proof of purchase of the Green Slip is required in order to register your vehicle.
NT	Territory Insurance Office	*Motor Accidents (Compensation) Commission Act 2014* (NT) *Motor Accidents (Compensation) Act 1979* (NT)	When registering your motor vehicle, a component of the registration fee will be the CTP insurance, otherwise called the 'Motor Accidents Compensation Scheme'.
QLD	Motor Accident Insurance Commission (MAIC)	*Motor Accident Insurance Act 1994* (QLD) *Motor Accident Insurance Regulation 2004* (QLD)	When registering your motor vehicle, you must nominate on the registration documents the insurer you choose to use out of select insurers who are licenced to issue CTP insurance and the insurance is actioned at the same time as the registration.
SA	CTP Insurance Regulator	*Motor Vehicles Act 1959* (SA) *Compulsory Third Party Insurance Regulation Act 2016* (SA) *Motor Vehicle (Third Party Insurance) Regulations 2013* (SA)	CTP insurance is bundled with vehicle registration fees but you choose your own insurer.
TAS	Motor Accidents Insurance Board (MAIB)	*Motor Accidents (Liabilities and Compensation) Act 1973* (Tas)	CTP insurance costs are included in the cost of vehicle registration in the form of a premium that is compulsory for registered vehicles.

VIC	Transport Accident Commission	*Transport Accident Act 1986* (Vic)	When registering your motor vehicle a component of the registration fee will be the CTP insurance, called a ‘Transport Accident Charge’.
WA	Insurance Commission of Western Australia	*Motor Vehicle (Third Party Insurance) Act 1943* (WA) *Motor Vehicle (Third Party Insurance) Regulations 2009* (WA)	When registering your motor vehicle a component of the registration fee will be the CTP insurance, often referred to as ‘Motor Injury Insurance’.

What does CTP insurance cover?

CTP insurance covers the personal injury expenses of another person injured in a motor vehicle accident. In most cases, CTP insurance will cover injury costs even if someone from your community organisation is at fault in the accident, however, the level and amount of cover may differ depending on the driver's level of fault.

In general, claims must be made within 12 months of the accident. If another scheme is available to cover injury costs (such as Workcover), claims may need to be made under that other scheme.

What is not covered?

CTP insurance does not cover property damage (for example, damage caused to buildings or another car, or damage to your community organisation’s vehicle).

Your community organisation should consider whether further insurance is required to cover damage to property in motor vehicle accidents (including damage to your own or another person’s property).

Why might our community organisation need motor vehicle insurance cover?

If your organisation owns or leases vehicles it must have CTP insurance. Your organisation should consider extra cover for costs arising from damage caused to property, or consider extra cover that will increase the range of benefits available to the injured person at fault.

What else should our community organisation be aware of?

There are a range of optional insurance types for motor vehicles. The policies available to incorporated community organisations are similar to the policies available for people. They are often referred to as comprehensive insurance (cover for your car and damage you cause to other people’s property) or third party property damage insurance (cover for damage you cause to other people’s property).

If you take out these types of optional insurance, your organisation should look carefully at what is covered. In general, most motor vehicle policies don’t cover loss or damage resulting from mechanical, structural or electrical failure. Also, most policies will not cover loss or damage if the car was driven when it was known to be in an unroadworthy or unsafe condition.

Your organisation should also look at and consider any requirements that the insurance company might have that may affect insurance costs including (but not limited to):

- information about the people driving the vehicle (such as driving record, licence or age qualifications, eg. there may be an excess or increased premium for drivers aged under 25 years)
- the employees or volunteers who are expected to regularly drive the vehicle (listing regular drivers may affect premium costs while failing to list a regular driver may result in an additional excess), and
- whether the motor vehicle is modified or has non-standard accessories (this may affect premiums)

Public liability insurance

What does this insurance cover?

A public liability insurance policy will protect a community organisation against its legal liability to pay:

- compensation to third parties (such as members of the public) for bodily injury, death and property damage that may occur as a result of the community organisation's activities, and
- the legal costs that a community organisation may incur if it needs to defend bodily injury and property damage claims made against it

What may not be covered?

When inquiring about public liability insurance cover, your organisation should check whether the policy covers, not only the organisation, but also its directors, officers, employees and volunteer workers. Your organisation should also check whether the policy extends to include psychiatric injuries (including nervous shock) and loss of use of property (other than through actual damage to that property).

Your organisation should carefully read the terms of any public liability policy it is considering, including any exclusions, but most public liability policies will not cover:

- claims for injury to a volunteer working for the organisation – this should be insured separately, under a personal accident or volunteer insurance policy (see below)
- claims for personal injury to its own employees (see workers compensation insurance)
- claims for damage caused to property in an organisation's custody or control – this should be insured separately under a building and contents insurance policy (see below)
- claims arising from negligent advice or negligent provision of some other service – these should be obtained separately, such as professional indemnity or directors and officers insurance policies

Why might our community organisation need this cover?

Most, if not all, community organisations (including their employees and volunteer workers) interact with members of the public and their property. Therefore most community organisations face the possibility that a member of the public may be injured (or worse) or their property damaged as a result of the activities or operations of the organisation.

If this occurs, the member of the public will be able to take legal action against your organisation. If your organisation is covered by appropriate public liability insurance, the costs of the court action and any compensation is likely to be paid by the insurance company (provided no exclusions apply and subject to any excess or deductible). If your organisation doesn't have public liability insurance it will be liable to pay the full costs of compensation and any legal fees that result from the incident. These can be extremely expensive, even if you win the case.

Public liability insurance is often a requirement in many contracts that community organisations enter into in the course of their activities (including funding agreements and leases).

Caution

Check whether any contracts or agreements your organisation might have entered into require your organisation to have public liability insurance. It's often needed if you are hiring a building or venue, or entering into an agreement with another community organisation to provide services.

Products liability insurance

What does this insurance cover?

A products liability policy will insure a community organisation against its legal liability to pay:

- compensation to third parties for bodily injury (including death) and property damage caused by products manufactured, sold or distributed by the community organisation, and
- legal costs incurred by the community organisation in defending bodily injury and property damage claims made against it as a result of products manufactured, sold or distributed by the community organisation

What may not be covered?

Products liability insurance does not usually cover the cost of recalling defective products.

Why might our community organisation need this cover?

If your community organisation manufactures, sells or distributes products to the public, products liability insurance should be considered. Because 'products' can include such things as food sold in office canteens and at fundraisers, even if your community organisation doesn't manufacture or sell products as part of its core operations, it should nevertheless consider this type of cover.

What else should our community organisation be aware of?

Products liability insurance is often provided in combination with public liability insurance cover in the form of a 'general' or 'combined' liability policy. If your community organisation needs both public and product liability cover, it could investigate a combined policy.

Professional indemnity insurance

What does this insurance cover?

Professional indemnity policies are often required to protect against economic losses arising in the context of the provision of services and advice of some kind, such as health services, legal services, consulting or advice services.

A professional indemnity insurance policy will insure a community organisation against the legal liability to pay:

- compensation to third parties for economic and other loss or damages (including for personal injury) arising out of an act, error or omission committed by the organisation in the conduct of its business or profession, and
- the legal costs incurred by the organisation in defending a claim for economic or other loss arising out of that act, error or omission

Note – this third party cover is different from an indemnity that your organisation may provide to committee members in its rules or constitution. These indemnity provisions protect against liability incurred in good faith by committee members.

What may not be covered?

Professional indemnity insurance policies usually exclude cover for liabilities assumed under a contract, unless that contractual liability would have arisen anyway (that is, if the contract did not exist). It's therefore important for any community organisation to check the liability and insurance consequences before signing any contract (such as a contract for the provision of goods and services). Other claims often excluded from professional indemnity cover include the costs of coronial, regulatory and administrative inquiries. However, it's sometimes possible to negotiate for such costs to be covered if necessary (for an extra fee).

Why might our community organisation need this cover?

Consider whether your community organisation is providing professional services or advice of some kind. Professional indemnity insurance provides protection for claims arising out of those professional services or advice and the cost of defending such claims. Professional indemnity insurance is mandatory, for some industries and professions, such as lawyers, health professionals, accountants.

Buildings and contents insurance

What does this insurance cover?

This insurance covers loss or damage to a community organisation's building, for building insurance, and the contents in it, for contents insurance, caused by specific 'events' or 'dangers' such as fire, storms and vandalism.

What may not be covered?

If your community organisation is taking out building or contents insurance, check the policy carefully so that you know exactly what 'events' or 'dangers' the policy covers.

Why might our community organisation need this cover?

If your community organisation owns its building or land, it should consider both building and contents insurance. If your organisation doesn't own its own building (for example, it's leasing), the landlord will be responsible for obtaining insurance for damage to the building. However, your organisation will still need to consider insuring the building's contents (for example, all your equipment, furniture).

Directors and officers or management association liability insurance

What does this insurance cover?

Under a directors and officers liability insurance policy (often called '**D&O**' insurance), the members of the Board or Committee of Management (and other 'officers') of a community organisation are insured against legal liability, including damages and legal costs, if they are sued for certain but not all wrongful acts.

Wrongful acts can include negligently giving wrong advice, requesting someone to perform a dangerous task, dismissing staff without proper authority or process, discriminatory conduct and misleading or deceiving the public in some way. Directors and officers will only be covered if the wrongful act committed was within the scope of their position in the community organisation.

Technically speaking, it's the officeholders themselves who are insured under D&O insurance, not the community organisation. Usually, the organisation's rules or constitution will provide for the organisation to pay the premium on behalf of the office holders and any excess due if a claim is made on the policy.

You should check the exclusions to the policy, however, as there may be a 'gap' between the liabilities you foresee your organisation being exposed to through its officeholders and the cover provided by the policy. This is a matter on which you should seek the specialist advice of your broker.

If, under association incorporation laws (see the table above), your community organisation is required to, or has chosen to, indemnify (a legally binding promise to pay for the cost of possible future damage, loss or injury of another party) committee members in its rules or constitution, taking out a D&O or Management Liability insurance policy is one way to manage this risk. As with all insurances, you need to check the scope of the insurance cover available under the D&O insurance with your broker to ensure the insurance coverage purchased is suitable for your purposes.

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Note

Association incorporation laws vary between the states and territories. If your community organisation is an incorporated association you will need to consider the laws that apply in the state or territory where your organisation is incorporated to see if there are any statutory obligations placed on the officers of your organisation and who will be deemed liable in the event there is a breach of a duty of care.

Company reimbursement component

D&O insurance can also include a 'company reimbursement' component, where the community organisation, and not the office holders, is indemnified for monies which the organisation has itself paid as an indemnity to its office holders. This could include the costs it occurs in defending its officeholders.

'Company reimbursement' policies are technically different from 'D&O insurance' although it's typical for such policies to contain both a component that covers the office holders directly and a component that covers the organisation directly, within the one policy wording.

Where your organisation holds a 'company reimbursement' policy separately from the 'D&O policy' held by its office holders, the organisation's policy can include cover for the payment of any excess due under the D&O insurance in the event that the organisation is required to make a claim under that policy, and may also cover where your organisation is required to indemnify its office holders.

What may not be covered?

Directors and officers liability insurance doesn't cover the community organisation itself for wrongful acts. Also note that D&O insurance will not cover acts which are outside the scope of the person's position within the organisation (for example, criminal acts like fraud would not be covered).

For community organisations that are incorporated as a company, they are prohibited by law (section 199B of the Corporations Act), from paying the premium for insurance of a director or officer against a liability (other than for legal costs) arising out of a wilful breach of duty, a director's improper use of position or information, so company purchased D&O policies will often exclude such liabilities.

Why might our community organisation need this cover?

Your organisation may want to consider this cover if its constituent documents (rules, constitution or by-laws) grant an indemnity to its directors and officers.

If your organisation has limited resources, the indemnity will be of little value to your office-holders unless the organisation has D&O insurance. This is because unless you have insurance, the amount your organisation can indemnity officers for is capped by the assets of the organisation.

If your community organisation doesn't have appropriate insurance, it may be exposed to the possibility that it may have to pay all of its assets to an office holder under the indemnity.

Caution

An indemnity from a community association to its office holders will only protect those office holders to the extent of the organisation's assets. For example, if an officer holder has a liability of $200,000 and the organisation only has $120,000 in assets, the organisation must pay these assets to the office holder. This will have two negative outcomes – the office holder will still have an $80,000 liability, and the organisation will no longer have any assets and may be required to wind up (close down).

Cyber liability insurance

What does this insurance generally cover?

Cyber liability insurance (also referred to as cyber risk insurance) is a relatively new type of insurance, but one that is becoming increasingly important for community organisations. Policies of this kind generally protect an organisation against certain internet-related risks – for example, computer and network hacking, fraud, information stealing, data and privacy breaches, cyber extortion, defamation and copyright infringement.

A cyber liability insurance policy will cover the organisation's legal liability to pay:

- compensation to third parties (for example, clients) as a result of one of the above events, and
- the legal costs a community organisation may incur if it needs to defend a claim in relation to a cyber-attack

An organisation may also be covered for:

- replacement costs for loss or theft of portable electronics devices (for example, laptops, iPads, phones)
- costs associated with data recovery, IT forensics (investigating whether a breach has occurred and how this can be prevented in the future), system repairs or rebuilding following a cyber event (including staff and contractor costs)
- business interruption, and
- communications, customer support and public relations costs

What may not be covered?

When considering cyber liability cover, your organisation should:

- check whether the policy covers, not only the organisation, but also its directors, officers, employees and volunteer workers (in the event those people find themselves individually legally responsible), and
- clarify whether the policy covers events that occur before the policy was taken out. Cyber-related events are often discovered some time after they actually occur, yet only certain policies will cover events before the date of the policy.

It's important to understand your organisation's cyber policies and technology state when taking out this cover as this can impact your coverage in certain claim scenarios.

Note

It's important to check the policy carefully to understand what events and costs are covered. If you are unsure, speak to the insurer directly.

Why might our community organisation need this cover?

Most, if not all, community organisations use technology in their day-to-day operations and store personal information on their systems. If these systems are compromised and unauthorised access to this information is gained, there may be significant consequences (financial, legal and reputational) for the organisation and those that interact with it. It is important the organisation is in a position to identify these events and respond promptly and appropriately.

While insurance will not eliminate cyber-related risks, it is a key tool in effectively managing them.

Related Not-for-profit Law resources

For more information about privacy laws generally, including data breach notification laws, and how they might apply to your organisation, see our Privacy webpage.

Fraud insurance

What does this insurance cover?

Also referred to as 'fidelity insurance', fraud policies insure against losses caused by misappropriation of funds and property by employees or committee members of a community organisation.

Why might our community organisation need this cover?

When considering whether this type of insurance is necessary, your community organisation should weigh the potential for misappropriation of its funds and the risk management measures it can take to prevent this occurring, (see above, 'financial controls') against the expense of fraud insurance.

Part 8

What happens when something goes wrong?

What happens when something goes wrong?

There are some important steps to take when things go wrong at your community organisation to maximise the benefit that will be available under an insurance policy.

Notifying your insurer

If something goes wrong it's important to notify your insurer as soon as possible when:

- any event causing loss or damage occurs
- a claim is made against your community organisation, or
- any fact or change in circumstance which may create a claim in future (do this before renewing your policy)

Claims against your community organisation

Generally, if your community organisation has professional indemnity insurance, or insurance covering its employment practices or the conduct of its officers, the policy will operate on a 'claims-made' basis. This means that your community organisation is insured against claims that are made during the period for which the insurance policy is in effect. This period is generally 12 months.

A claims against your organisation may be made in a number of ways, such as by receipt of a letter of demand or by the service of a legal process (such as a writ or statement of claim).

Each subsequent period of insurance will usually exclude from cover any claims made on the policy which arise from 'prior known circumstances'. 'Prior known circumstances' are circumstances which you became aware of before that period of insurance started that might later give rise to a claim.

This means it's very important to notify your insurer of anything that could in future give rise to a claim as soon as possible and before the end of the policy period, so that the issue can't be excluded from cover under the policy on a 'prior known circumstances' basis.

Once you have notified the insurer of any such circumstances, the insurer will record them on your policy. Should those circumstances develop during a later period of insurance, your community organisation will then be in a better position to receive coverage under its insurance policy.

Examples

A community organisation distributes second hand goods and becomes aware that one of its staff members hasn't been complying with its codes of conduct or quality control policies – it should notify its insurer of this as that conduct may lead to a claim by a recipient of those goods in the future.

A community organisation becomes aware that an officer has stolen money from another organisation (but is not aware of any loss to its own organisation) – it should notify its insurer of this as it may later discover that the officer has stolen money from it and wish to make a claim.

Resources

Not-for-profit Law resources

The Not-for-profit Law website has further resources on the following topics:

- Insurance and risk

  The Insurance and risk section of the Information Hub covers background checks, negligence, work health and safety, Personal Property Securities Register and criminal conduct.
- Events

  This page provides information on organising and holding events, including issues related to food handling, alcohol service, and sport and adventure activities.
- The people involved

  This section covers the relationships your organisation will have with clients, employees, members and volunteers, including recruitment, resignations and disputes. It also features information on compliance with privacy laws.

Other related resources

- Australian Financial Complaints Authority

  The Australian Financial Complaints Authority provides accessible, fair and independent dispute resolution for consumers and financial services providers.
- Volunteering Australia – Running the risk?

  Volunteering Australia has produced a risk management tool for volunteer involving organisations.

Legislation

Incorporated associations

- *Associations Incorporation Act 1991* (ACT)
- *Associations Incorporation Act 2009* (NSW)
- *Association Act 2003* (NT)
- *Associations Incorporation Act 1981* (QLD)
- *Associations Incorporation Act 1985* (SA)
- *Associations Incorporation Act 1964* (Tas)
- *Associations Incorporation Reform Act 2012* (Vic)
- *Associations Incorporation Act 2015* (WA)

Staff and volunteer screening

- *Working with Vulnerable People (Background Checking) Act 2011* (ACT)
- *Child Protection (Working with Children) Act 2012* (NSW)
- *Care and Protection of Children Act 2007* (NT)

- *Working with Children (Risk Management and Screening) Act 2000* (QLD)
- *Children's Protection Act 1993* (SA)
- *Registration to Work with Vulnerable People Act 2013* (Tas)
- *Working with Children Act 2005* (Vic)
- *Children and Community Services Act 2004* (WA)

Workers compensation insurance

- *Workers' Compensation Act 1951* (ACT)
- *Workplace Injury Management and Workers Compensation Act 1998* (NSW)
- *Workers' Compensation Act 1987* (NSW)
- *Return to Work Act 1986* (NT)
- *Workers' Compensation and Rehabilitation Act 2003* (QLD)
- *Return to Work Act 2014* (SA)
- *Return to Work Corporation of South Australia Act 1994* (SA)
- *Workers' Rehabilitation and Compensation Act 1988* (Tas)
- *Workplace Injury Rehabilitation and Compensation Act 2013* (Vic)
- *Workers' Compensation and Injury Management Act 1981* (WA)

Motor vehicle insurance

- *Road Transport (Third-Party Insurance) Act 2008* (ACT)
- *Road Transport (Third-Party Insurance) Regulation 2008* (ACT)
- *Motor Accidents Compensation Act 1999* (NSW)
- *Motor Accidents Compensation Regulation 2015* (NSW)
- *Motor Accidents Act 1988* (NSW)
- *Motor Vehicles (Third Party Insurance) Act 1942* (NSW)
- *Motor Accidents (Compensation) Commission Act 2014* (NT)
- *Motor Accidents (Compensation) Act 1979* (NT)
- *Motor Accident Insurance Act 1994* (QLD)
- *Motor Accident Insurance Regulation 2018* (QLD)
- *Motor Vehicles Act 1959* (SA)
- *Compulsory Third Party Insurance Regulation Act 2016* (SA)
- *Motor Vehicle (Third Party Insurance) Regulations 2013* (SA)
- *Motor Accidents (Liabilities and Compensation) Act 1973* (Tas)
- *Transport Accident Act 1986* (Vic)
- *Motor Vehicle (Third Party Insurance) Act 1943* (WA)
- *Motor Vehicle (Third Party Insurance) Regulations 2009* (WA)