

# Risk Management and insurance

While insurance itself is not a risk, effective and current insurance policies are a key part of any risk management program. They provide an opportunity to transfer some risk to an insurer in return for payment of a premium.

Being insured does nothing to reduce the likelihood of undesirable events occurring, but, depending on the terms of your policy, insurance can provide cash compensation after an incident has occurred. It is particularly useful for low-likelihood but high-consequence risks.

Insurance should be used as a last resort, after the risk has been treated as much as reasonably possible. Remember, having insurance does not mean that you cannot be sued.

In some sports, a range of insurance products is provided by the state or national organisation as part of the affiliation process. It is commonplace for registered players to have some limited cover for injuries sustained in the course of participating in events, programs and activities of the organisation. This insurance cover arises as a result of the NSO or SSO arranging the insurance and then recouping the premium by imposing a small levy through player registration fees. Individuals and organisations are encouraged to consult with their state/national body to gain a further understanding of the insurance products provided through affiliation and registration.

## Arranging insurance cover

Insurance can be purchased directly from an insurance company (or an agent of an insurance company) or the policyholder can appoint an insurance broker, whose role is to act on behalf of the client to source appropriate and cost-effective insurance cover from the insurance market.

## Insurance classes and wordings

Insurance policy wordings and the protection provided by the policy will vary between insurance companies. Even though policies may go by the same name, they don't necessarily provide the same level of cover.

Policy benefits, conditions and exclusions are critical when comparing an insurance policy from one company to another. The only way to be certain of the insurance cover provided is to read the policy document and question your broker or the insurance company on any queries. The following case highlights the need to check exclusion clauses: the wife of a footballer who died on field in 2005 was denied an insurance payout because players older than 25 were not covered for cardiovascular-related deaths.

## Types of insurance

The insurance covers listed here are the more standard forms that may need to be considered by the average recreation and sport body.

## 1. Legal Liability Covers

As a result of trends in litigation liability insurance, protection often heads the list of an organisation's insurance priorities. It is most important to identify that the insured under the policy includes all those entities and individuals who may be exposed to litigation.

### Public Liability

Public liability insurance covers liability that results from loss of or damage to property, loss of use of property and death or injury due to negligence. It excludes breach of professional duty.

A suitable recreation and sport liability policy should consider the following:

- first aid treatment risk
- member-to-member cross liabilities
- umpires/referees liability
- tenants liability
- goods sold/products liability
- property in physical and legal control
- property owners liability
- car parks.the game. By not applying padding, this duty of care has been breached and someone has been injured as a result of this breach.

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Breach of professional duty is excluded under public liability insurance. For example, a public liability policy would respond to the following incident:

A football game commences without the goalpost padding in place. A player runs into the goalpost and is seriously injured. A negligence claim would likely result as a duty of care exists to provide safe facilities to play the game. By not applying padding, this duty of care has been breached and someone has been injured as a result of this breach.

## **Professional Indemnity**

Professional indemnity insurance covers the insured against claims for compensation for breach of professional duty by reason of any negligence by way of act, error, omission or advice.

This type of cover is particularly relevant to coaches, instructors and referees, but also applies to medical staff and other professionals involved in recreation and sport.



Exclusions apply to the policy, which vary from one policy to another, so it is important that these exclusions are understood. It is possible to include extensions to the policy for the payment of an additional premium. Common extensions are:

- libel and slander
- fidelity guarantee
- fraud and dishonesty (amends the dishonesty exclusion so that dishonest acts unbeknown to the insured can be covered)
- loss of documents
- trade practices legislation
- automatic reinstatement of aggregate limit of liability
- consultants, sub-contractors and agents.

**Example:** *A coach decides that his inexperienced players should undertake some tackling practice without inquiring what tackling expertise they have; he does not give any instruction as to how tackling should be done. He also matches the 100-kilogram 'bruiser' with the 70-kilogram 'speedster'. The speedster suffers spinal injuries. Taking into account duty of care, a negligence claim would likely result. As this is a clear example of error or omission of professional duty as a coach, a professional indemnity policy would respond to this incident.*



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## **Directors and Officers Liability**

Directors and officers insurance indemnifies the directors, committee members and other officers of the association against any 'wrongful act' committed by them in their capacity of director or officer.

'Wrongful act' is any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission or breach of warranty or authority while acting in the capacity as directors or officers.

Exclusions will apply to the directors and officers policy. Usual exclusions include:

- bodily injury and property damage (this protection is generally provided by a public liability or professional indemnity policy)
- dishonesty and fraud of directors and officers
- actions arising from the rendering or failing to render professional services and/or advice (this protection is generally provided by a professional indemnity policy)
- claims that are made or threatened prior to the commencement date of the policy or circumstances that any director or officer was aware of that could give rise to a claim prior to commencement of the policy.

**Example:** *A fitness centre's board of management, desperately keen to grow its business, decides it needs improved facilities and embarks on a \$100,000 facility refurbishment. Proper planning and research was not done prior to the refurbishment. When the creditors cannot be paid, they decide to hold the directors and officers personally liable. As this was neglect, error and omission by the board members while acting in their board capacity, a directors and officers liability policy would respond to this incident.*

## **Association Liability**

Association liability insurance is a policy offered by some insurers. It can be considered to be a specialist policy for incorporated associations, which adds an element of professional indemnity protection to directors and officers insurance. It is important to understand that this policy does not replace public liability or professional indemnity insurance for coaches and officials. As per directors and officers, association liability insurance excludes bodily injury and property damage.

## **2. Insurances Associated with Income Protection**

Participants in recreation and sport, by the nature of the activities in which they are involved, have the potential for injury. Insurance is available that provides agreed benefits in the event of injury where permanent disability or medical and associated expenses are incurred or where earning capacity is lost. (Public liability insurance responds only in the case where injury or property damage occurs as a result of negligence.)

### **Workers Compensation**

Workers compensation insurance is a legal requirement for all employers and protects employees who are injured in the workplace.

### **Personal Accident Insurance**

Personal accident insurance is usually arranged on a group basis. This can be done at any level - from covering all members of an individual team/club all the way up to covering all members who are registered with all organisations affiliated with a particular national controlling body.

Personal accident insurance protects members while participating in their sport and recreation activities (both practice and matches), including travelling to and from those activities, attending official functions of the organisation and while staying away from home during a tour for the purpose of participating in sport and recreation events.

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The benefits provided under a group personal accident policy can include:

- death
- permanent total disability
- permanent partial disability
- non-medicare medical expenses
- loss of income
- parents inconvenience allowance
- various additional 'add on' covers.

Covers provided will vary from company to company so it is important to fully understand the details of the insurance that is purchased. For example, under the permanent disability section, some policies will cover all permanent disability, both total and partial, whereas some policies will only cover permanent total disability. As the vast majority of permanent sports injuries are partial disability only, this is a very significant difference in the policies.

## 3. Protection of Assets

Recreation and sport organisations are extremely diverse in terms of size, financial turnover and assets. Therefore, the types of insurance they require to protect their property will vary considerably.

Property will typically consist of buildings, fixtures and fittings, machinery, furniture and other contents, sporting and other equipment, money and stock. If your building is leased, you should talk to the property owner about what insurances are required.

Equipment will also vary considerably and may be fixed or mobile; it may include motor vehicles, groundsmen's equipment such as mowers, etc., computers, cash registers, gaming machines, etc. Stock may include basic canteen supplies and equipment or beverages required to stock licensed premises. Ideally, a complete list of insurable property should be available.

Keeping current records of property is important. This is often referred to as an asset register. Photographs are useful, especially with honour boards and historic items, and may be of assistance in the event of a claim.

Once you determine the property available to insure, you must then consider whether or not to insure it. Consider:

- What is the likelihood of loss or damage?
- Can any actions be taken to reduce the likelihood of loss or damage?
- What would be the consequence if the property was destroyed or damaged?
- Does the organisation have the finances to replace it? Would it need to be replaced?

Addressing questions such as these will assist considerably in determining if initiating or maintaining insurance is an appropriate action.

Usual classes of insurance appropriate for clubs include:

- fire and specified perils
- consequential loss (business interruption)
- burglary
- money
- glass
- machinery breakdown
- spoilage of frozen food
- electronic equipment breakdown
- general
- fidelity guarantee
- motor vehicle, mobile plant
- watercraft.

# Risk Management and insurance *cont.*

## Steps to follow for a sustainable insurance program

The following are the steps you should take to establish a sustainable insurance program:

- Implement a risk management program to reduce the likelihood and consequence of undesirable events.
  - If desired, appoint an insurance broker with the appropriate knowledge, experience and qualifications in the area of insurance and risk management.
  - In association with the broker, determine those risk exposures within the organisation to which insurance is to be applied.
  - Organise cover that meets the organisation's requirements.
  - When policies are received, in association with the broker, review the wordings to ensure there are no unknown endorsements, exclusions or conditions.
  - For group insurance policies in particular, those covered under the policy should be aware of the benefits that are applicable. Many organisations have their members sign a declaration that they are aware of the cover provided and that they accept that cover at the time of membership.
  - Remain vigilant in regard to changes in circumstances such as addition or disposal of assets that may affect sums insured or special events that may fall outside the current policies or require additional cover.
  - Be proactive in ensuring that all claims made are genuine and that incurred losses are minimised.
- Analyse all available data concerning claims and injuries with the aim of extracting information that will aid in identifying strategies for reducing the likelihood or consequence of claims. This will benefit the cost and availability of insurance and allow for a safer environment for all participants. For example, with personal accident insurance, ask yourself the following questions:
    - What are the exact injuries being incurred?
    - What is causing the injuries?
    - On what surface was the activity being conducted at the time of injury?
    - What were the weather conditions?
    - At what stage of the game did the injury occur?

This information can help you make changes to minimise the likelihood of accidents and therefore increase your chance of securing ongoing insurance. Many state/national sporting bodies are involved in 'group insurance' schemes. These schemes involve the state/national body negotiating an insurance package on behalf of all of their members and then each affiliated club is able to purchase insurance through the scheme.

Operating as a group enables the risks and costs to be shared and often leads to much lower premiums than if your club acted on its own. To find out more, contact the state association for your sport or activity.



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Local Community Insurance Services, (LCIS), is a specialist insurance provider established to manage the insurance needs of clubs and community groups within Australia. Not-for-profit organisations are eligible if they:

- provide services to the broader community
- have a turnover/funding of up to \$5 million per annum
- do not distribute profits to members
- consist mainly of volunteers.

To find out more and obtain a quote, visit the Local Community Insurance Services<sup>104</sup> website.

There are also some insurance companies that offer specialist sport insurance such as:

- Sportscover<sup>105</sup>
- Jardine Lloyd Thompson<sup>106</sup>

## Insurance Checklist

An insurance checklist relevant to sport and recreation organisations is available at the NSW Office of Sport and Recreation website.

<https://sportandrecreation.nsw.gov.au/clubs/ryc/governance/insurance>



<sup>104</sup> <http://www.localcommunityinsurance.com.au/>

<sup>105</sup> <http://www.sportscover.com/>

<sup>106</sup> <http://www.jlta.com.au/>