

## Insurance for OSCAR Programmes

Insurance is a risk management tool. Where the level of risk is perceived to be low, insurance coverage might be a lower priority. Any decision to get insurance coverage should weigh up the level of risk against the cost and the extent of the coverage being offered.

For insurance coverage to apply there must be an actual loss – this could be physical injury or trauma, damage to property, loss of earnings or other financial loss. You cannot insure against deliberate disregard for the law. Negligent actions or not operating in a professionally competent manner may also be excluded from coverage in some policies.

Insurance companies or insurance brokers may offer packages that combine various types of insurance policies to suit an organisation's particular needs. Carefully review the details of any policy being offered – is this coverage even relevant for your organisation?

Some questions to ask are: what policies would they recommend for your organisation? What situations are and aren't covered by each policy? Ask for examples that are relevant for your situation. If you use a broker, check they are a member of a recognised professional body. Do they offer services/support if you are making a claim?

The following is a general guide only and explains what is typically covered by some policy types.

**1. BUILDING AND ASSETS** OSCAR programmes should consider their need for insurance coverage in respect of the buildings they occupy and their equipment. The building owner is usually responsible for insuring the building and its chattels (furnishings and appliances). The OSCAR programme is usually responsible for insuring its own equipment.

Any agreement with the building owner should stipulate responsibility for minor damage. The building insurance policy will usually have an excess. This is a dollar amount below which the policy will not cover the cost of damage. Something like a broken window may fall below this amount. The OSCAR programme may be expected to cover costs of damage up to the amount of the excess.

Programmes who own their transport need to ensure their motor vehicle insurance is valid. Coverage should include private vehicles being used for work purposes.

**2. PUBLIC LIABILITY** Insurance companies offer public liability policies to cover damage to the property of third parties for which the insured organisation is legally liable. ("Third party" means someone who is not staff, management or a client/customer of the insured organisation.)

Public liability may for instance cover damage caused by a ball that went over the fence of an OSCAR programme and did some damage to a neighbouring property, or hit a car parked on the street. More seriously, for a programme that is renting a school facility of community hall, it may protect the programme against potential liability if the building was seriously damaged e.g. by a fire, and the programme was seen as somehow responsible. Public liability policies are subject to an excess and an OSCAR programme would have to weigh up the costs of the policy against the likely costs of damage to "third parties" as a result of activities at the programme.

Public liability does not usually provide coverage for injury, unless that injury is not covered by ACC.

**3. EMPLOYERS' LIABILITY** Insurance coverage for employers can include Employment Practice Liability which provides coverage for any costs arising from an employment dispute, including legal costs if the dispute ended up in court. (The policy may or may not include volunteers.) This could arise from a dispute over wrongful termination of employment, unfair treatment as an employee or a dispute about how the employment agreement is being applied.

Employers' Liability insurance provides coverage for liability due to injuries sustained by employees but not covered by ACC e.g. stress-related injuries, gradually developing conditions.

**4. STATUTORY LIABILITY** If someone in your organisation unintentionally breaches legislation such as the Privacy Act or Health and Safety at Work Act, your organisation could be held accountable by the agency responsible for that legislation. (Although if a staff member has been acting negligently this sort of policy may not provide coverage.) Statutory Liability insurance covers the costs of legal proceedings, as well as fines imposed under most NZ legislation. It is not possible to insure against fines imposed by Worksafe. (Worksafe may impose penalties on employers using the reparations process and this may be covered.)

**5. PROFESSIONAL INDEMNITY** The Insurance Council explains this coverage as applying when *"a customer may suffer loss because of negligence or professional misconduct by your business or its employees. You may then face legal liability to put it right."*

Professional indemnity insurance does not usually cover losses caused by injury. ACC law prohibits claims for damages where the injury is covered by ACC. This means that OSCAR programmes are unlikely to face something like a personal lawsuit instigated by parents of a child injured at the programme.

Professional indemnity usually concerns other forms of loss, where something goes wrong with the service being provided, or there is a failure of duty of care. This could be where a child is lost or taken by an unauthorised person, and there were costs incurred by the parent that were not relating to an ACC-covered injury. This might include counselling costs for trauma or loss of earnings from their job, but OSCN is not aware of any situations where a claim has been made under this type of insurance coverage.

**Other possible insurance coverage:**

- Director's and officer's liability
- Fidelity guarantee – covering fraud, theft of cash or property by a staff member
- Business interruption