

# Association Liability insurance



## It's all about the rules

New Zealand has approximately 23,000 incorporated societies from small to very large organisations. Some incorporated societies have very sophisticated rules, but others may have rules that are ambiguous or inconsistent. So when it comes to resolving a dispute with a member or a third party this may prove difficult and could ultimately lead to legal proceedings.

## Why should an association have Association Liability cover?

Officers of incorporated societies can have personal liability as officers of the association. Whether an association is set up for the members' own enjoyment or for the good of a particular industry or group or for the public in general, the decisions an association officer makes on behalf of the association could result in personal liability. The cost of defending a claim can be a significant financial burden to you and the association and the association may not have the financial resources to fund your legal costs.

## What are some of the key points of cover?

### Who is covered

- ▶ The association
- ▶ The officers or committee members and any employees.

Covers liability arising from a claim for:

- ▶ actual or alleged misstatement, misleading statement, act, error or omission, negligence, breach of duty, breach of trust, breach of authority or other act committed or attempted; or
- ▶ any act, error, omission in the course of the association's activities and services and provision of advice.

### Advancement of defence costs

Pays defence costs for a claim against the association's officers for an allegation of excluded conduct prior to the final disposition of the claim.

The officer must refund defence costs to NZI if found guilty.

### Committees

Covers the insured for liability arising from any committee convened by the association.

### Court attendance costs

Pays \$500 per day per officer required to attend a Court as a witness in connection with a claim.

### Defence Costs

Paid in addition to the limit of indemnity.

Maximum amount payable is \$5,000,000 or the limit of indemnity, whichever is the lesser amount.



### Emergency defence costs

NZI waives the requirement to obtain prior written consent before the officers can incur defence costs if our written consent is obtained within 14 days of the first of such defence costs being incurred.

Sub-limit of 10% of amount payable for defence costs.

### Health and safety defence costs

Covers an officer for defence costs for a claim or an investigation for a breach of the Health and Safety at Work Act 2015 but only after exhaustion of any cover under a statutory liability policy.

### Insured versus insured

Pays defence costs for any claim by one officer against another officer or a claim for contribution or indemnity.

### Investigation costs

Covers legal defence costs in connection with an official investigation or inquiry into the affairs of the association.

### Public relations expenses

Covers the cost of a public relations consultant retained to publicise findings in a final judicial disposition of a claim in an insured's favour to mitigate any adverse effect on the reputation of an insured as a result of the claim.

\$25,000 sub-limit.

### Punitive and exemplary damages

Covers punitive and exemplary damages ordered by a NZ Court in connection with medical, welfare, counselling and other social services where such services are part of the association's professional services.

Sub-limit of \$1,000,000 or the limit of indemnity, whichever is the lesser amount.

## Claims examples

- ▶ A member of an association received a suspension notice from their association. The member appealed the association's decision and a judicial review found that there had been an error in law in the suspension.  
General damages claimed by member of **\$55,000**.
- ▶ In a defamation claim against the president of an association who spoke out against an industry participant, **\$1,600,000** was awarded in defence costs and damages.
- ▶ An association offered insurance services to its members. One of the members alleged that the association had misrepresented the benefits to members about a competing insurance offer.  
**\$22,000** in defence costs incurred.
- ▶ In a dispute over fees and rights available to members of a residents' association, **\$91,000** was awarded in defence costs.

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