

Professional Indemnity Insurance for BMCs

As you doubtless recall, the matter of Insurance of Branch Maintenance Contacts has been raised at the last two AGMs.

I have arranged Personal Accident cover for BMQs on a similar basis to the Tower Advisors. However, With regard to whether or not it was necessary to obtain professional indemnity insurance for BMQ's, I sought advice from the CCCBR. I'm sorry that it has taken a while but I have received an authoritative opinion, which I attach below.

I did also ask if any other Associations had taken out a Professional Indemnity policy but not, as yet, received a response on this point, but I think that it is unlikely.

Reading between the lines, I believe the opinion is that if advice is being paid for then it comes in the category of "professional" and if it isn't, it doesn't.

C P-W

Charles

Sorry for the delay in replying.

Ernie

We have had a discussion regarding Professional Indemnity Insurance.

Rather than try and summarise the discussion, I am forwarding to you James Smith's contribution to the discussion.

James is the insurance expert on the committee.

I hope this helps.

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Ernie,

I think the key to professional indemnity insurance is in the name - it is for liability incurred for failing to observe the proper standard of care when providing a professional service, resulting in a loss to the client. If the Association in question is offering a professional service, or holding itself out as providing specialist services or advice, those who might reasonably rely on that service or advice have a case if the service or advice turns out to be deficient. That distinguishes it from public liability insurance, which covers one for breach of the usual 'person in the street' duty of care that causes loss. The usual 'person in the street' isn't providing a professional service, and might have and express opinions on what should be done, but isn't saying so as an expert.

Ringling associations are going to be in a grey area. It all depends I think on whether they are holding themselves out as being specialists, and if the churches can reasonably be expected to rely on their advice. If the answer to that is yes, then in the association is exposed to a risk of legal action for professional negligence and professional indemnity insurance could protect it against damages and costs (and of course hassle - the insurer takes on the case and defends it or settles it).

Potential reasons not to take it out include:

- the cost, as you've mentioned
- risk assessment - we take uninsured risks all the time, you don't have to insure them all.
- moral hazard - the phenomenon that if you're insured, you are likely to take more risks
- the fact that if people know you're insured, they are more likely to sue.

Insurance is only one way of managing risks, though it's often a compulsory one. It would make sense for the maintenance advisers always to say that their work is not a professional service, but a voluntary one provided by members of the ringling fraternity, and that if in doubt professional advice should be sought. If you aren't holding yourself out as providing professional services, but rather the opposite, it's more difficult for someone to argue that you were, and that you were therefore subject to that higher duty of care.

It's worth them speaking to their broker to disclose that they do maintenance visits, if they haven't already done so, and check that the PL cover doesn't exclude routine maintenance (it shouldn't). I suspect though that the best advice is to steer clear of services that sound like professional advice and services, and always make it clear that a maintenance visit is not a professional service.

Hope this helps.

Regards,

James