

Public Liability Insurance for Ringing Associations

What is it? Why have it? What would happen if we didn't have it?

What is it?

Public liability insurance is rather like Third Party motor insurance. It doesn't cover you for any damage to yourself or your own car (property) but it covers you against your *legal liability* if you injure someone else or damage their property – often their vehicle, but possibly their building or other property. One of the most expensive third party motor claims was a fairly recent one when a driver fell asleep at the wheel, ran off the road, through a fence, down an embankment and into the path of a fast train, de-railing the train and killing and injuring people. He was found guilty of criminal offences, which need not concern us here, but will also have been considered negligent in falling asleep while driving. (There was no underlying medical condition involved, which might have made a difference, and he did not do it deliberately, which is not negligence, but he had not had enough sleep before embarking on his journey.) His insurer will have paid compensation for the deaths, injuries, damage to train and fence and all the direct consequences of having the railway line closed for several days.

If you had been standing at the side of the road and had somehow caused that accident - perhaps by starting to cross in front of the car - you might have been held responsible for it and thus for all those costs, due to your *negligence*. If you had house contents insurance it would have covered you for *personal liability* in this regard – up to a certain amount anyway. If you had been standing at the side of the road and caused that accident as part of your work - perhaps as a contractor digging up the road - your employer would have been held responsible (as employers are liable for the acts and neglect of their employees) and it would have been their *public liability* insurance that would have paid out.

If you had been standing at the side of the road but had not caused the accident your insurance would not have paid out as you were not negligent in any way. It is not always simple to assess whose negligence has caused an accident, and insurers will not pay out until they are certain that their policyholder was the one fully or partly to blame. Often several parties can be to blame, to varying degrees, and liability has to be apportioned. So these policies do not just pay out just because there has been an accident. There has to be negligence on the part of the policyholder. This is what the policy covers and what you are paying the premium for. If you were not insured you could have to pay any damages yourself from your own personal or business assets, depending on whether you were acting in a personal or business capacity at the time of the accident.

So in summary, public liability insurance protects the people insured against their legal liability for causing death, injury or damage to third parties or their property. To establish that there is a legal liability for that injury or damage, negligence must be proved by the person claiming against the policyholder. Most claims are settled directly by the insurance company, but sometimes it is necessary to go to Court to establish for certain either whose fault it was or how much compensation should be paid.

It is worth mentioning that there can sometime be accidents for which no one is legally liable. These are sometimes called Acts of God. Even in these cases people will often seek out someone to sue. For example, if your neighbour's tree falls on your house during a storm, it is not his fault as he did not cause the storm. But if you can show that he must have known that the tree was in a dangerous condition and likely to fall, perhaps because you had told him, then the tree falling was not an Act of God, but was caused by your neighbour's negligence in not making it safe. (Your household insurance will cover you for the damage caused by the tree falling as Acts of God are not excluded from house insurance.)

Why should ringing associations have it?

All legal entities, whether individual people, companies or associations, owe the rest of the world with whom they come into contact a legal duty of care. We all have to be careful as we go about our lives that we do not injure or damage others. If we do, we are responsible for making good that damage or injury. If we do not make good, we can be sued in the Courts for compensation.

Most ringing associations are unincorporated association of members – members' clubs. This means that if a club has liabilities in excess of its assets, its officers and members would be individually liable to meet those liabilities.

How could any liability be incurred? The risk of incurring a liability is much less than from driving a car, both in terms of how often damage or injury might be caused to a third party and in terms of how severe that damage or injury might be. It is not easy to dream up examples of things that could go wrong, as if something ever does it is likely to be something else entirely. But there are still risks, and some of these include:

- A fire might be started at an association meeting caused by eg (a) a member smoking and not putting out his cigarette properly or (b) overloading the electricity supply during the meeting. This could cause death or injury, damage to property and consequential losses.
- Members conducting a survey of, or minor maintenance on, a bell installation might drop some tools while examining a tower roof, causing injury or damage to those below.
- Members might be running a course where someone was injured while being taught how to teach ringing. (This happened during a Surrey Association Training session once.)
- An incident could occur caused by a stand at an exhibition or show, causing injury or damage to the premises, eg a breach of any rules about how many people were to be in a room and a floor/ceiling had collapsed.
- Members taking part in a ringing outing might cause a road accident by crossing the road outside a tower without taking enough care.

As people become more aware of their rights and more litigious generally, whenever anything goes wrong there is an instinct to look for someone else to blame and to try to get compensation. Insurers are there to defend claims as well as to pay them, and if a claim is made against you that is without any merit at all it can be an expensive business to defend yourself. Insurance covers this cost as well. So just an allegation of negligence can be expensive.

On the other hand, people also have a habit of going for the “deepest pocket” when seeking compensation. So someone with insurance can appear a more attractive option to sue than someone without. It can be a high risk strategy to do without insurance purely for this reason though, and ringing associations might be upset to find themselves responsible for, say, the permanent injury and inability to work again, or even death, of a young person with a young family, and unable to meet the cost of compensation to provide a living for him and his family.

What would happen if we didn't have it?

If the association had no insurance and were in fact to be sued for the compensation in a case like the one above, involving serious injury and a large cost, say a total of around £1 million (it could be more) what would happen? How would it set about meeting that Court judgment and legal fees? How could the injured party enforce it?

First the association would have to sell its assets and use them to meet the bill. Some associations have quite a lot of assets, such as a library or a Bell Restoration Fund, and could meet a fairly high award of compensation without having to resort to individual members being asked to pay up. How would associations feel about selling its assets and using all its money and reserves to pay a Court award of this sort? If the association or its BRF is registered as a charity, what would the Charity Commission think of the trustees for allowing such an uncovered liability to have been incurred?

If this was still not enough, members would have to make up the difference, probably in proportion. Supposing there were to be a shortfall of £500,000 (again, it could be more). This would be divided between the association members. If there were 200 members they would have to pay £2500 each. The shortfall from any who were unable to pay would have to be shared among the remainder. If any were purely unwilling to pay they could be sued themselves for their share, or the remainder could be sued for the shortfall.

Can't individuals claim on their own house contents insurance?

Individuals can if they were acting in their private capacities at the time of an accident, and they have this type of insurance. Supposing someone caused a car accident when crossing the road outside a tower on an outing organised by the association. If that person were to be sued personally they could look to their house contents policy to defend them and to pay any damages they had to pay. But supposing they didn't have any contents insurance (25% of people don't), or they didn't have enough and the damages came to more than the amount of cover they had. The injured party would look for someone else to sue. As they looked around, their eye would light on the association, who had organised the outing, and who might then be brought into the claim. At the very least there could be high legal costs incurred in defending the action. It is hard to see how an association's negligence could have caused or contributed to the accident, but the injured party might say, for example, that the association should have been aware that this was a very dangerous stretch of road and should have warned people to park elsewhere.

Going back to the start, the policyholder has to be found to be negligent before a claim will be paid. Even if individuals hold contents insurance, it will not protect the association if a claim is made against them rather than against the individual.

Finally, the risk of a claim is low so insurance premiums are not high. Associations have to balance their desire to protect themselves, their assets and their members and their personal assets against the cost of public liability insurance and the risk that having the insurance might attract claims against you that might otherwise not be made.

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