

OFFICE BEARERS' LIABILITY INSURANCE 101

It is common for lot owners to volunteer as members on Strata Committees without knowing this personally exposes them to risk. Office Bearers can become personally liable for any wrongful acts or inaction resulting in financial loss to others while acting on behalf of a Strata Scheme. Office Bearers Liability insurance is available as part of Strata insurance and can help you minimise personal exposure.

WHO IS AN OFFICE BEARER?

An Office Bearer is any person, appointed (or previously appointed) to act as an Office Bearer of an Owners Corporation, including a Chairperson, Secretary, Treasurer, and other Committee/Sub-Committee members on a Strata Committee. For larger buildings, in particular, the Owners Corporation, Committee, and Office Bearers can be actively involved in the management of the Owners Corporation's affairs (e.g., managing disputes, enforcing rules, and making key decisions).

WHAT IS OFFICE BEARERS' LIABILITY INSURANCE?

Office Bearers' Legal Liability insurance (OBL), is an optional safety net for Office Bearers for the costs and expenses associated with legal proceedings, including legal defence costs, damages, settlements, and costs orders. OBL cover also extends to losses incurred by an Owners Corporation when they are legally required to indemnify an Office Bearer for losses arising from such proceedings. Additionally, the OBL cover can be triggered in the event where allegations are made about Office Bearers' inaction that results in financial loss to lot owners. OBL cover can extend to any representatives, including Strata Managers, lot owners, or other representatives when acting as an Office Bearer, Committee Member or agent of an Office Bearer, and anyone invited to act as an Office Bearer or Committee Member by a Strata Committee to assist in the management of the Owners Corporation's affairs, with written and delegated authority by a Strata Committee.

WHY IS OFFICE BEARERS' LIABILITY INSURANCE IMPORTANT?

Although maintaining OBL cover is not a statutory requirement for Owners Corporations (unlike mandatory property damage, liability or Voluntary Workers cover to minimum statutory limits), we live in an increasingly litigious society, where Office Bearers are exposed to considerable financial risk from litigation relating to decisions made and actions taken on behalf of an Owners Corporation. Strata Legislation across Australian States and Territories provides a degree of protection for Office Bearers who are acting in good faith when exercising their duties and responsibilities. However, this is not all-encompassing protection. Failure to take out sufficient OBL cover can leave even Office Bearers with the best of intentions personally accountable for significant costs and expenses, including legal fees.

CHOOSING THE RIGHT LEVEL OF COVER

The individual circumstances of each scheme need to be taken into consideration for each limit recommended. As a general guide, however, for small to medium strata schemes, a limit of approximately \$1,000,000 cover would be appropriate (and increased as the schemes become larger or more complex).

IN THE EVENT OF A POTENTIAL CLAIM

It's important to note that OBL cover is issued on a "Claims Made" basis, meaning any knowledge of circumstances that may give rise to such claims must be reported to the insurer before the expiry of the current insurance policy. This includes formal demands, a notice of intention to issue proceedings, and even circumstances that give a reasonable indication that legal proceedings may be issued. Failure to do so can result in the insurer not accepting the claim.

THE HONAN IN-HOUSE RISK TEAM

Office Bearers' legal liability is a complex area with a high propensity for disputes and exposure to uninsured losses. Insurers often take full conduct of the OBL claims under their policy rights of subrogation and can insist on appointing their own panel of solicitors who report directly to the insurer. In such an environment, an Owners Corporation and its Committee stand to benefit from an Insurance Broker committed to representing the interests of the Owners Corporation and involved Office Bearers, as well as advocating on their behalf when disputes arise and ensuring cover is extended to agents and assistants of Office Bearers, where appropriate. The Honan in-house risk team, with experienced Brokers and legally qualified Claims Consultants, are well placed to assess your individual risk profile, reduce your independent financial exposure, and deliver proactive risk solutions to help mitigate future losses and risks.

WITH YOU ALL THE WAY

To find out how Honan can support you, please reach out to your Honan Account Manager or Claims Consultant at any time.

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