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| Chapter 12 – Insurance |
| This chapter looks at your committee’s insurance needs  and what to do if a claim is made against it. | |

# 12.1 Introduction

Your committee needs adequate insurance to cover any claims arising as a result of its management of the reserve.

## Insurance provided to your committee by DELWP

Your committee is covered by the department’s insurance arrangements for the following types of insurance, subject to policy terms and conditions.

✓ Public and products liability

✓ Professional indemnity

✓ Group personal accident (volunteer cover).

**See the table and information in 12.2 for details.**

It is important to note that these insurances only cover liabilities that your committee may incur. They do not cover liabilities that any other person or organisation may incur, such as contractors, lease or licence holders, or users or hirers of the reserve or any buildings on it.

Also note that municipal councils who are committees are not covered for liability arising from municipal functions or when they have another policy of insurance in place that covers the same risk.

## Insurance your committee may need to purchase

DELWP **does** **not provide** committees with any of the following types of insurance. Your committee should consider **whether it needs to purchase** any of the types of insurance below:

 Built asset (e.g. building and contents)

 ‘Casual hirer’s public liability’

Question mark Workers compensation (needed if your committee employs staff and has an annual payroll of over $7,500)

Directors and officers



any other insurance the committee may require.



**See 12.3. for details.**

## Incidents and claims

Your committee needs to understand the process to follow if it becomes aware of a safety incident or other potential claim against it. No admission of liability should be made. DELWP will oversee the investigation process.

**See 12.4 for details.**

Please advise the DELWP Insurance team should any third party be injured, or their property lost or damaged while on your reserve:

* by email to [risk.audit.insurance@delwp.vic.gov.au](mailto:risk.audit.insurance@delwp.vic.gov.au)
* by phone via the customer contact centre on 136 186
* by mail to the Senior Insurance Officer, DELWP, PO Box 500, East Melbourne Vic 3002, or
* via the local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations).

# 12.2 Insurance provided to your committee by DELWP

Your committee is covered by the department’s insurance arrangements for the types of insurance set out in the table below. Cover is subject to the terms and conditions of the policies.

## Certificates of insurance and copies of policies

Certificates of insurance that show your committee is covered by these types of insurance can be downloaded from the *Insurance for your committee* section of the [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website. Policy wordings can also be found there. Certificates are issued from 1 July each year and are valid for one year.

## Table

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| **Insurance** | **Description** | **Who is covered by this insurance?** |
| Public and product liability | Provides insurance cover to your committee if a claim is made against it for **personal injury** or **property damage** to a third party, for example, a member of the public.  Example:  A member of the public trips over a hazard on the reserve. | Your committee of management is covered if a successful claim is made against it.  **Does not** provide insurance cover for other organisations/persons See later in 12.2 for details. |
| Professional indemnity | Provides insurance cover to your committee if a claim is made against it for an act or omission that is a ‘**breach of professional duty**’.  Example:  A committee advises a professional tenant that they will generate a certain level of income, but visitor numbers are well below those advised. | Your committee of management is covered if a successful claim is made against it.  **Does not** provide insurance cover for other organisations/persons. See later in 12.2 for details. |
| Group personal accident | Provides insurance cover to **volunteers** (including committee members) who are **injured** while engaged in **voluntary** **activities** as authorised by your committee.  Example:  A volunteer is injured while assisting at an authorised fundraising activity for the committee. | All authorised volunteers who are injured can submit a claim if they have a permanent or temporary injury and incur out of pocket for medical expenses and/or require home or other assistance. This includes committee members. |

### Group personal accident insurance (volunteer cover)

This type of insurance is called ‘group’ because it insures a whole group of people: volunteers who are engaged in voluntary activities as authorised by your committee.

For this reason, your committee must maintain records of who volunteered and when, and the nature of the activity. An example of a **volunteer attendance register** is available in 15.3 ‘Volunteer attendance register – keep one!’.

Under this type of insurance, a volunteer who is injured and whose claim is successful will receive a lump sum payment. The amount of the payment will depend on the nature, severity, and duration of the injury. Injury includes physical injury, death and/or psychological trauma.

## Insurance requirements for lease or licence holders, contractors, casual hirers and regular users of the reserve

Only your committee is covered by the department’s insurance arrangements. For this reason, your committee needs to impose the following requirements and make the following checks.

### Lease or licence holders

If your committee issues any leases or licences (see chapter 10 ‘Leases and licences’):

* The committee needs to regularly check that the **public liability** insurance required as a condition of the lease or licence holder’s contract is sufficient, appropriate and current.
* The committee can also require a tenant to insure any buildings they occupy if they are the sole occupant.
* Lease and licence holders should also have insurance to cover any of their property stored on reserve premises.

### Contractors

Your committee must ensure that contractors have their own insurance before they are engaged to carry out work on the reserve. The type of insurance required by the contract will depend on the nature of the work being undertaken. For example, an arborist would need public liability and professional indemnity insurance. However, a person mowing the oval may only require public liability insurance. See chapter 1 for further information about contractors.

### Casual hirers

Some Crown land reserves have facilities that can be hired out for a one-off event, such as a party or a meeting. The insurance cover provided to your committee by DELWP **does not cover** claims by third parties (member of the public) for injury or property damage arising from the negligence involving the hirer. For example, it does not cover a situation where guests suffer food poisoning at a wedding in a hall hired out by the committee.

Your committee needs to check whether the potential hirer has a policy that covers public liability, and if so, whether it is adequate. If the potential hirer does not, the committee will need to either:

* require the hirer to take out this insurance
* refuse to hire out the facilities out to them, or
* take out adequate hirer’s liability insurance itself.

Because often potential hirers do not have public liability cover, or it is not adequate, many committees purchase ‘casual hirer’s public liability’ insurance (also called ‘hirer’s liability’ insurance.). A committee can purchase this insurance on an annual basis. The premium will depend on the estimated number of bookings for the year that would require cover. The cost of the insurance policy can be recovered in the hire fee.

### Regular users

Consider whether a lease or licence agreement is needed if the reserve is used by an organisation or group on a regular basis. These agreements come with standard insurance requirements. Groups such as regular sporting club users would usually be expected to enter into a lease or licence. See chapter 10 ‘Leases and Licences’ for details.

If a group will be using the reserve on an informal basis then, depending on the nature of the activity and level of risk, ask for evidence that it has public liability insurance. For example, the risk involved if a snake watchers group meets regularly at the reserve would usually be higher than for a bird-watchers group. See chapter 11 ‘Risk’ for information about risk.

### Commonwealth, state or local government users of the reserve

Government departments maintain their own insurance. Unless they are a lease or licence holder of the reserve, for example if there is a school on a reserve, there is no need to ask for evidence of insurance.

## What to verify on the insurance certificates of the above persons/organisations?

Check the following information on the insurance certificates of lease and licence holders, contractors, hirers and others.

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| **Certificate Section** | **Item to check** |
| Name of insured | The name on the insurance certificate must match the name on the contract of the licence or lease holder, contractor, hirer or other organisation/person. |
| Type of insurance | The insurance cover is for public liability or combined liability or general liability (public and products).  Consider requiring a tenant to insure the premises. |
| Period of insurance | The period of insurance must cover the forthcoming 12 months. |
| Insured sum | Generally **$10 million** public and product liability cover is required.  A minimum of $1 million per claim is required if professional indemnity insurance is requested. |

# 12.3 Insurance your committee may need to purchase

The following insurance is **not provided** for your committee. Your committee should:

* consider the nature of the reserve and the structure of the committee, and
* decide **whether it needs to purchase** the insurances below or any other type of insurance.

## Built asset insurance – building and contents

Your committee is responsible for **building and contents** insurance for:

* damage to buildings on the reserve (property insurance), and
* loss of, or damage to, contents and other assets owned by the committee (contents insurance).

If your committee has buildings on the reserve and it does not purchase this type of insurance, the building and its contents will be **uninsured**. This means that if damage, destruction or other loss, such as theft occurs, the committee will not be able to replace or repair the loss without paying the full cost of doing so. Your committee has a responsibility to take this into account in making its insurance decision.

As previously noted in 12.2, if the buildings on the reserve are occupied under a lease, the tenant can be required to insure the premises.

Your committee may also need to consider whether to insure other built assets on the reserve such as playground equipment.

### Check with local council

While councils have no obligation to do so, some councils elect to insure buildings on reserves managed by locally elected committees. If your committee intends to insure the buildings on the reserve, contact your council first to confirm that they haven’t already done so.

## Workers Compensation insurance – WorkSafe insurance

Your committee must take out workers compensation insurance with WorkSafe Victoria if:

* it employs staff, and
* its annual payroll is expected to be more than $7,500.

Call WorkSafe Victoria on 1800 136 089 or visit the easy-to-use [Insurance](https://www.worksafe.vic.gov.au/insurance) page of the [WorkSafe](https://www.worksafe.vic.gov.au/) website for further information.

## Directors and Officers insurance

Some committees take out Directors and Officers insurance. This insurance provides protection for any errors or omissions that a committee member or an executive staff member of the committee might make within the scope of their role.

Employment practices liability cover is often also included in this type of policy. It can help the committee in responding to employment-related disputes.

## Advice on commercial insurance needs

Consider what other insurance your committee may need to purchase. For example, a major committee with a vehicle would need to consider car insurance.

As committees come in all shapes and sizes, no one list of insurance requirements will suit all committees. Terms of insurance policies also vary widely between different insurance companies.

If your committee is seeking an insurer from which to purchase cover, such as directors and officers insurance or buildings and contents insurance, we recommend speaking with an insurance broker, who can assist and guide with your needs. Go to [www.needabroker.com.au](http://www.needabroker.com.au).

# 12.4 Incidents and claims

Claims can arise if a member of the public is injured or a person or organisation suffers damage to their property:

* while on your committee’s reserve, or
* at an event held elsewhere that is organised by the committee.

## Becoming aware of an incident

Your committee may become aware of an incident from a variety of sources. These sources could include the injured person or property owner; their legal or other representative; police, ambulance or emergency services; the media; or a committee member or employee who observed the incident.

**Notify** **the** **DELWP Insurance Team as soon as possible** after becoming aware of an incident that may result in a claim. Contact details are at the end of this chapter. This is vital as a formal claim may not be received until many years later.

## What to do if contacted by a potential claimant?

If a potential claimant, or their representative, reports an incident to the committee in person or by phone:

* **Record the following information**:
  + the date and time of the report, who made it and how, for example, by phone
  + the potential claimant’s full name, address and other contact details
  + the date and time of the incident
  + any witnesses’ names, addresses and other contact details
  + a description of the incident
  + the nature and extent of the injury or property damage. (Later, photograph where the incident occurred.)
* Advise the person that if they decide to submit a claim they need to do so in writing, for example by email.
* **Avoid** making any admission of liability. Never remark or comment on the incident (see ‘Avoid any admission of liability’ below).
* **Notify** the DELWPInsurance Teamas soon as possible. See contact details at the end of this chapter. The department will advise the next steps to take (see ‘Investigating an incident’ below).

If a potential claim is received in writing:

* **Do not reply to any letter or claim.**
* Notify the DELWP Insurance Team.
* Provide all documents relating to the incident.

## Avoid any admission of liability

In some circumstances, an admission of liability can **void** **the insurance policy**.

When responding to an incident, never admit liability. However, note that an apology couched the right way will not constitute an admission of liability. Either of the following phrases are ways of apologising without admitting liability:

* "I am sorry this has happened."
* "I know this has caused you concern/pain/anxiety."

### Other things to avoid

To reduce the likelihood of unnecessary claims:

* **Do not** offer to pay any medical or other expenses.
* **Do not** agree that any equipment or facilities were faulty.
* **Do not** blame other committee members, employees or other parties.
* **Do not** argue or discuss the cause of the incident with the injured person or witnesses.
* **Do not** conduct an investigation or fill out the incident report form in the presence of the injured person.
* **Do not** discuss the incident with the media or make statements about the incident before receiving instructions from the DELWP Insurance Team.

## Investigating an incident

All incidents that are potential claims need to be investigated as soon as possible after they occur. The longer the time that elapses between the incident and the investigation the less likely that information will be available/accurate.

Your committee’s responsibility is to gather the facts of the case so that DELWP can consider whether there is a liability at law, or whether liability rests with another authority or person.

The **incident notification form** provided to your committee by DELWP will set out the information that needs to be gathered and recorded. For an example of the type of information required, see the six points described under ‘**Record the following information’** in ‘What to do if contacted by a potential claimant?’ (Above, previous page.)

When new information or witnesses are found at any time after the incident, the DELWP Insurance Team should be notified as soon as possible by email to [risk.audit.insurance@delwp.vic.gov.au](mailto:risk.audit.insurance@delwp.vic.gov.au).

## Formal claims made against the committee

A formal claim for compensation is usually lodged in writing or by a writ or statement of claim. Make a note of how the letter or claim arrived. Was it by mail or hand delivered? If by hand, who delivered it? Do not make any remarks or comments about the incident to any person who delivers the letter or claim. **Do not reply to any letter or claim**.

Send the letter, writ or statement of claim and the incident report, including any names and contact details of witnesses and any notes or photos relating to the incident to DELWP.

**Notify** **the DELWP Insurance Team** as soon as possible, preferably by email to [risk.audit.insurance@delwp.vic.gov.au](mailto:risk.audit.insurance@delwp.vic.gov.au) or by mail to the Senior Insurance Officer, DELWP Insurance Team, PO Box 500, Melbourne Vic 3002.

# 12.5 Serious incidents/near misses involving employees

Incidents that cause or could have caused (a near miss) serious injury or death to an employee **must** be reported to WorkSafe as soon as possible on 132 360. It is a legal requirement that an [Incident Notification Form](https://www.worksafe.vic.gov.au/resources/incident-notification-form) must be completed and returned to WorkSafe **within 48 hours**. See the [guide to incident notification](https://www.worksafe.vic.gov.au/resources/guide-incident-notification) on the [WorkSafe](https://www.worksafe.vic.gov.au/) website for further information.

# 12.6 Further information

For further information on insurance see the *Insurance for your committee* section of the [committees of management](http://www.delwp.vic.gov.au/committees) page on the DELWP website, including the certificates of currency, the links to the insurance policy wording, and the ‘Insurance for Committees of Team’ fact sheet.

## Contact details – DELWP Insurance Team

For insurance queries and as soon as possible after your committee becomes aware of an incident that may result in a claim, contact the DELWP Insurance Team:

* by email to [**risk.audit.insurance@delwp.vic.gov.au**](mailto:risk.audit.insurance@delwp.vic.gov.au)
* by phone via the customer contact centre on 136 186
* by mail to the Senior Insurance Officer, DELWP,PO Box 500, East Melbourne Vic 3002**,** or
* via the local DELWP [regional office](https://www2.delwp.vic.gov.au/communities-and-regions/regions-and-locations).

# 12.7 Electronic copy

An electronic copy of this document is available from the DELWP website ([www.delwp.vic.gov.au/committees](http://www.delwp.vic.gov.au/committees)).