

- FREQUENTLY ASKED QUESTIONS (FAQ) -

NON-PROFIT DIRECTORS & OFFICERS INSURANCE (D&O) AKA: MANAGEMENT LIABILITY INSURANCE FOR NON-PROFIT ORGANIZATIONS

Abbreviation Legend

D&O = Directors & Officers

CGL = Commercial General Liability

EPL = Employment Practices Liability

PSO = Provincial Sport Organization

NSO = National Sport Organization

LSO = Local Sport Organization

SBC = SBC Insurance Agencies Ltd.

WHY DO NON-PROFIT ORGANIZATIONS NEED A SEPARATE D&O POLICY?

Directors and officers of non-profit organizations carry significant risk to their personal assets in the event of the organization's bankruptcy or insolvency. These organizations along with their directors, officers, employees, and volunteers may be the subject of numerous types of claims that can incur significant defense costs over several years. It is important to remember that a lawsuit does not need to have merit to have a financial impact.

"D&O Lite", "Professional Liability", "Errors & Omissions Liability" | Inclusive Coverage Details

Any "inclusive coverage" through a master policy or an organization's policy has limited coverage and may not be broad enough to cover your directors and officers' liabilities. Most "inclusive" directors and officers coverages only indemnify directors and officers for compensatory damage claims. This means claims seeking monetary compensation. The policy wording is very limited and an experienced sports insurance broker would be able to identify this on your behalf. This could be a gap in your policy and therefore your organization will be responsible for the defense costs.

Please note, contingent on the insurance carrier you are insured with, the "inclusive" directors and officer's coverage may be called something different. Names used are "D&O Lite", "Errors and Omissions Liability" and/or "Professional Liability". The "inclusive" directors and officers coverage generally ONLY covers compensatory damages.

WHAT CAN NON-PROFIT ORGANIZATIONS PURCHASE?

A separate D&O policy can be purchased through various insurance companies to encompass liability coverage for directors and officers (D&O), employment practices (EPL), fiduciary and outside directorship (ODL).

WHAT CAN A SEPARATE D&O POLICY COVER?

A separate D&O policy or management liability can protect the organization and individuals against a variety of allegations such as general negligence, misrepresentation, defamation, wrongful termination, discrimination, harassment, non-disclosure, as well as statutory liabilities under human rights, environment, and occupational health and safety legislation. Most separate D&O policies provide coverage for compensatory damages (monetary rewards awarded by a judge) AND punitive damages (awards intended to punish).

WHAT DOES A D&O POLICY NOT COVER?

1) CGL NOT Covered or NOT a Benefit

The directors and officers liability policy does not cover bodily injury and/or property damage claims, allegations and/or settlements against your organization/society/association. Bodily injury and/or property damage claims are normally covered via a Commercial General Liability insurance policy or also known as a CGL policy.

2) Sport Accident or AD&D NOT Covered or NOT a Benefit

In addition, a directors and officers liability policy does not cover excess medical expenses such as physiotherapy, massage therapy or dental work if you are injured while participating in a sport or activity. Excess medical expenses would normally be covered through another separate policy known as “Participant Accident”, “Sport Accident” or “AD&D” insurance.

3) Travel Medical or Excess Travel Medical Insurance NOT COVERED or NOT a Benefit

The directors and officers liability policy does not cover travel expenses or travel medical expenses for your members should they be hospitalized or traveling abroad. A separate travel insurance policy for additional premium can be purchased for these trips.

Where can I buy this separate D&O Insurance?

You can purchase a separate director and officers policy through **SBC Insurance Agencies Ltd.**, the only insurance brokerage in Canada owned by a non-for-profit. SBC Insurance has been dealing with non-for-profit organizations for over 30 years and has access to a selection of insurance companies to provide your organization with a separate D&O policy.

Feel free to email info@sbcinsurance.com for more information.

IMPORTANT REMINDERS

Covers One Entity ONLY

- 1) A separate D&O policy will provide protection for one entity ONLY. This means, if your organization (PSO, NSO, LSO) has directors and officers and want to apply, the insurance will be ONLY for your entity.
- 2) A separate D&O policy does NOT provide or extend to any member clubs or any other organizations that may be associated with your organization. These member clubs or other entities who are interested in obtaining coverage would need to apply for a D&O policy on their own accord.

For the future and not the past

- 3) A separate D&O policy will cover future events/incidents or is an insurance policy to protect your directors and officers for incidents that occur in the future.

- 4) A separate D&O policy does NOT cover past or prior incidents occurring before a policy is in place. For example, this means, incidents that have occurred in 1980 and where your directors and officers are sued, would NOT be covered

CLAIMS EXAMPLES

Please note: These are claims examples referenced by an insurance company. The policy wordings, limits, limitations, exclusions and coverages on the official declaration pages will be binding and NOT this document.

Membership Reinstatement

A “specific” member of your provincial sport organization (PSO) has on record repeated offenses where club rules, policies and bylaws have been broken. Notices have been sent to this member and after much debate, the directors and officers decided to NOT renew this individual’s membership in the PSO. The former member did not agree with the decision and decides to sue the directors and officers of the board with a demand for reinstatement. The individual seeks no monetary relief.

Negligence and Breach of Trust

After filing for bankruptcy, a non-profit organization was sued for negligence and breach of trust for failing to repay a temporary operating fund provided by another organization for a fundraising event.

Unethical Conduct

A former member sued the board of a professional association alleging that the board of directors had targeted her, and that they had not followed the organization’s bylaws, when they revoked her membership for unethical conduct.

Wrongful Termination

After being terminated for sexual misconduct and harassment, a senior executive sued the non-profit organization for wrongful termination, and the directors and officers for alleged interference with contractual relations.

Wrongful Termination

As part of a corporate reorganization, a large non-profit organization terminated the employment of a long-term employee. The employee sued the organization alleging wrongful termination. The employee also alleged that she had been defamed as a result of a written communication that had found its way into the hands of individuals outside the board of directors of the organization.

Negligent Misrepresentation

A non-profit organization successfully applied for, and received, government funding for the purpose of organizing and hosting an event. Unfortunately, the expenses incurred for the event far exceeded the revenues received. After a government audit, it was determined that the funds had not been used for the purposes described in the funding application. The government commenced an action seeking damages due to the alleged negligent misrepresentations in the application documents and for the alleged breach of fiduciary duty on the part of the directors of the organization.

Breach of Fiduciary Duty

A member of a professional association sued the association and several of its directors and officers as a result of a disagreement with respect to licensing requirements. The member sought damages as compensation for the alleged breach of fiduciary duty, defamation and interference with economic interests.