Inside insurance

Stephen Perry provides an expert guide to the complex world of insurance.

THE MANAGEMENT of a charity's insurance arrangements often falls to the FD. This article looks at the issues involved and provides some tips for success.

The *Charity Finance* insurance survey set out on pages 28-35 shows that most charities buy insurance indirectly through a broker, rather than direct from insurers. This can be helpful because a broker will usually provide advice about the market and which products best fit the risks, a skill which may not be available in-house to many smaller charities.

However, 15 per cent of respondents were found to be buying cover direct, which can realise premium savings and create a working relationship with insurers which is helpful in the event of a claim, or when negotiating renewal terms.

Relationships

When dealing through a broker it is important to understand which insurers the broker can place business with. It is not always understood that brokers do not have access to the whole market. Many brokers only have relationships with a handful of insurers, and vice versa.

This largely hidden web of relationships can restrict access to some parts of the market. So, before committing to a particular relationship, it can be worth exploring a range of options, particularly if the required sums to be insured are high or when buying specialist policies.

A number of respondents to the survey were found to be only reviewing their insurance arrangements every three years or more. The market – and relationships within the market – can change quickly, as can rates and policy wordings. It is recommended that you review your insurance arrangements at each renewal to confirm that the programme of cover remains appropriate to the charity's appetite for risk and continues to represent best value.

> "Support during the claims process is often overlooked when choosing a broker"

Insurers often like to see, in initial negotiations and at renewal, that the scope of cover has been reviewed and compared with the organisation's risk profile.

For larger organisations it can be a useful discipline, and it often helps the relationship with insurers, if you commission an independent risk report. This can then inform the decision about which risks to insure and which to self-insure.

Risk management

Large brokers often provide risk management as a service, although the survey indicates this is an area many respondents are less happy with. Further information and guidance on risk management can be accessed from the Institute for Risk Management. A short piece of independent risk consultancy can quickly pay for itself in lower insurance costs.

Making successful claims is the reason insurance is bought, but the availability of support during the claims process is often overlooked when choosing a broker. Many smaller brokers do not have the resources to support their clients during claims.

Larger brokers usually do provide claims support, although this can vary from simply logging and reporting claims to actively representing the policyholder if a claim becomes difficult. It is important to understand how your broker and insurers will provide claims support, and consider whether your charity has the capacity to manage a claim should the process become difficult.

Wording

It is often found during the process of making a claim that the policyholder is not fully aware of the policy's wording. When selecting a policy you should always read the wording and check the meaning of any clauses which are not clear, and at renewal ensure the wording has not changed.

Misunderstandings over the meaning of the policy can often cause difficulty during claims, particularly over the application of conditions and warranties.

In insurance law, conditions and warranties have a different meaning to that in the general law of contracts. In insurance policies, warranties are critical terms which, if not followed, enable the insurer to repudiate the policy. If the policy comes with warranties it is vital they are followed, and if requiring action (eg a particular type of security protection) that this is implemented.

The survey results show that premiums are the main consideration for a charity when considering insurance. One of the trends currently affecting premiums is a sharp increase in both the volume and value of personal injury settlements, leading to increases for liability cover.

To ensure premiums are appropriate when placing or renewing a policy, the organisation should always review its sums insured. While premiums are lower the lower the sum insured, the risk of being under-insured in the event of a claim should be avoided. Guidance on the appropriate level of cover is often the main advantage of working with a broker. Trustees need to be sure they are comfortable on this, if buying insurance direct.

Excess

When putting together an insurance programme, the FD should ensure cover is adequate and reflects the organisation's risk profile. All organisations with employees are required to carry employers' liability (EL) insurance. It is also advisable, although more expensive, to carry EL with a nil excess, which will lead to all aspects of any claim being dealt with by the insurers.

The impact on premiums of a lower excess should be weighed against the impact on the organisation of paying the first part of any settlement.

For organisations with a large number of staff or widespread activities, the cost-benefit can often favour a high excess, with the charity in effect self-insuring all claims except catastrophic incidents.

If carrying a high excess and self-funding a claim, it is still worthwhile to arrange for insurers to manage all liability claims even though insurers will only be paying any large settlements. The policyholder can then take advantage of their insurer's claims function rather than trying to manage the claims in-house.

The other types of insurance needed will depend on the organisation's risk profile and activities, the value of its assets and any contractual requirements.

> "The incidence of employee fraud continues to increase"

If the charity has premises, or carries out activities beyond its premises, it is necessary to carry public liability (PL) insurance to cover the risk of injury or damage to any third party or property. Many insurers will bundle in with a PL policy cover for products liability which deals with injury or damage caused by physical items, either sold or given away.

Primary liability for damage caused by faulty products is with the manufacturer, however a charity can be held liable if the product has been named by the charity, repaired, refurbished or changed, or if the manufacturer cannot be identified or has gone out of business.

Two other types of insurance less frequently purchased, but which should be considered before deciding to self-insure, are fidelity guarantee and employment practices liability.

Fidelity guarantee cover insures the risk of white-collar crime, primarily theft by employees. The incidence of employee fraud continues to increase and fidelity policies are purchased by nearly all large charities. For small organisations this may be seen as unaffordable, but trustees should consider the risk and any decision to self-insure should be taken consciously.

Employment practices liability cover insures for awards and legal fees in employment disputes (typically unfair dismissal, discrimination and harassment claims).

This cover is aimed at small organisations, as large businesses will often have a human resources team with policies and procedures to mitigate the risk. For smaller organisations, an employment dispute can be a costly event and insuring against the risk can often be advisable.

Trustee liability

Trustee liability insurance is something all charities should consider. The risks attaching to the roles of trustees, directors and officers are the same whether voluntary or paid, and the need for insurance is something all FDs and trustees should review.

Further guidance on trustee liability, and insurance in general, is available from the Charity Commission which publishes guidance – see particularly CC49, *Charities and Insurance* – on the issues facing charities, and which is helpful in understanding the risks facing trustees.

As the insurance renewal season gets underway, it is always advisable to review your charity's insurance programme; the relationship it has with its brokers and insurers; its risk profile and appetite for risk.

This is the time to ensure that the charity and its officers are receiving adequate protection from the insurance arrangements which have been established. ■

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