

Liability Cover Overview

Cover is provided to WA Government agencies that participate in the RiskCover Fund, to indemnify the agency for all sums (including legal costs) which the agency is legally liable to pay in respect of:

- **General Liability** - claims against the agency resulting from an occurrence in connection with its activities;
- **Employment Practices Liability** - claims made against the agency for employment related disputes;
- **Professional Liability** - Claims made against the agency for errors or omissions in the rendering of, or failure to render, professional advice or services by the agency;
- **Medical Treatment Liability** - claims made against the agency for bodily injury, mental injury or death of a patient arising from the rendering of, or failure to render, medical or health services (other than first aid) provided by the agency in the course of its business or activity.

What is the agency responsible for?

- completion of the relevant section of the annual Self Insurance Risk Declaration (SIRD);
- notifying the Insurance Commission of any material changes to the agency's business activities or exposures e.g. amalgamation of agency activities;
- immediately notifying the Insurance Commission of any circumstances likely to give rise to a claim;
- the appropriate claim form and supporting documentation must be submitted by the agency;
- not admitting liability without the Insurance Commission's prior approval, and;
- taking all reasonable care to prevent or minimise third party injury or property damage.

What is covered?

General Liability

- liability for defamation, infringement of copyright, patent, trademark or design;
- agency liability for unlawful, fraudulent, dishonest, criminal or
- malicious acts of employees;
- liability arising from loss of or damage to documents;
- liability for damages under the Competition and Consumer Act 2010 or the Fair Trading Act 1987 not otherwise covered under Professional Liability;
- contractual liability (provided the agency complies with the Fund Guidelines 8.1, 8.2 and subject to specific contractual liability limitations);

Employment Practices Liability

- advancement of defence costs.

Professional Liability

- the personal liability of employees, volunteers, work experience persons and officers of the agency whilst performing their official duties for and on behalf of the agency;
- damages under the *Competition and Consumer Act 2010* or the *Fair Trading Act 1987* which is not otherwise covered under General.

Medical Treatment Liability

- the personal liability of employees, volunteers and officers of the agency, secondees and medical students while acting in their official capacity.



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- the personal liability of employees, volunteers, work experience persons and officers of the agency whilst performing their official duties for and on behalf of the agency;
- unincorporated social club committees and members;
- liability for first aid services;
- aviation passenger liability; and
- statutory liability for remediation costs and expenses due to pollution covered herein.

What is not covered?

General

- use of any registered vehicles;
- cost of rectifying faulty workmanship;
- liability expressly assumed under any contract, unless compliant with Fund Guideline 8;
- deliberate or wilful breach of a contract;
- unavoidable consequences of construction works in accordance with the contract unless resulting from a negligent act, error or omission, or the quantum or nature of the claim was unexpected or unintended;
- joint ventures or partnerships, unless specifically notified and cover allowed; and
- personal liability of directors or officers imposed under the *Statutory Corporations (Liability of Directors) Act 1996*.

Employment Practices Liability

- personal liability of employees other than for a successful defence of a claim supported by the agency;
- claims and circumstances occurring prior to 4pm on 30 June 1999; and
- various excesses apply dependent upon the wage roll of the agency and compliance with the *Public Sector Standards and the Public Sector Management Act 1994*.

Medical Treatment Liability

- no cover applies for any private medical practitioners who should maintain their own medical defence cover.

