

## INSURANCE TIPS AND CONSIDERATIONS

Accidents can happen at your Arts Centre /Theatre and its important you understand your 'liability' or legal responsibility to compensate for damage or injury to people and property. This document is intended as some items for consideration and should not be taken as advice without speaking to a professional insurance broker.

All performance venues, arts organisations and event organisers should always ensure you have Public Liability Insurance. A third party insurance designed to protect the public whilst attending an event at your arts centre, contractors, or anyone that may be injured and /or whose property may be damaged whilst in the boundaries of your arts centre/theatre. If there is no public attending the event /theatre it is advised to request Public Liability Insurance of the company / organisation who is hiring or using the space eg a community group rehearsing of upcoming community show this ensure that all parties are covered in the result of an injury.

You will need to contact an insurance broker to obtain Public Liability Insurance and it generally standard for organisations to have a minimum cover is a minimum \$20,000.000.

Preventing accidents is the utmost important and ensuring that appropriate risk management is in place. We all know that accidents do occur; whether it is a patron falling down the stairs, a volunteer injured using a hot water urn or a microphone may be stolen. Therefore, you need to ensure you have the right liability insurance and that you, your staff and organisation is covered.

### **What is liability?**

Liability is your legal responsibility, duty, or obligation to compensate a person for the harm you have caused by breaching your legal duties to that person:

- **Duty of Care:** the law requires you to take reasonable care to avoid hurting or damaging a person or their property when your actions (or inaction) are likely to affect them.
- **Breach of duty:** if what you do (or fail to do) causes harm to a person whom you owed a duty of care, you may be legally responsible or liable.
- **Consequences:** if the legal system finds that you have done the wrong thing and are responsible for the harm caused, you may have to pay money to the injured person or for the damaged property. The court will look at what precautions you took to prevent harm to the person to whom you owed a duty of care.

### Responsibility of tenants or licensees of theatres / eg hiring a rehearsal room

The owner of a property is ultimately responsible for maintenance of the property. As a tenant or licensee occupying property, for example under a lease for a theatre you may still be responsible for injuries occurring on the rented or licensed premises, including those caused by defects in the property. This is called Occupier's Liability and the general duty of care applies whether you are the owner, a tenant or a licensee. The liability of an owner/occupier if a visitor is injured on the property is determined by considering whether there was a real risk of an injury occurring and

what a reasonable owner/occupier would have done to prevent injury. That is to say there may be no liability where the risk of injury is obvious.

### **Identify risks**

You need to identify the risks at your Arts Centre /theatre / production. You should think about the possible situations where a person could be injured or property could be damaged, even if they seem unlikely to occur.

### **Insurance basics**

When you get insurance, you enter into an agreement (**insurance policy**) under which you pay a sum of money (**premium**) against the insurer's undertaking that the insurer will compensate a third party for harm or damage you might cause to that person or his/her property.

### **The following types of insurance might be relevant in relation to you:**

- **Public liability insurance** covers damage caused to a person or his/her property, but does not usually cover employees or volunteers. For example, if a patron slips and is injured in your foyer, public liability insurance would cover any resulting damage suffered by the patron. You should take out public liability insurance to cover any damage to people or property occurring in the space you occupy unless you are insured under someone else's public liability insurance. Eg If your building is a Local Government Arts Centre you may be covered under the Councils policy.

Accordingly, it is essential that you ascertain to which extent, if any, you are covered under your own or someone else's public liability insurance.

- **Product liability insurance** covers damage caused to people or property by faulty products. In Australia, there is strict liability for damages caused by defective products. This means that a person suffering injury or property damages from a defective product may recover damages from a manufacturer without having to prove intention or negligence on the part of the manufacturer. The term "manufacturer" is understood broadly, and includes importers of foreign products as well as people involved in the manufacturing process.

Accordingly, product liability insurance is particularly important to obtain if your activity involves the selling of any merchandise that could cause injury to consumers.

- **Workers compensation insurance** provides compensation to a 'worker' who suffers a work related injury. You need to check the workers compensation legislation of your state or territory to understand your obligations as an 'employer' to have workers compensation for your 'workers'.

In Western Australia there is no threshold that you must reach before insuring people defined as 'workers'. The Workers' Compensation and Injury Management Act 1981 (WA) requires employers to insure their workers with WorkCover WA . Visit <http://www.workcover.wa.gov.au> to find out more.

- **Professional indemnity insurance** covers damage caused to a person as a result of the insured person's professional activity. For example, you may provide advice or instruction in a special technique in a publication or a workshop. If someone then relies on your professional opinion as expressed in that publication or workshop and is injured or suffer damage because the opinion was incorrect, they may seek to hold you responsible;
- **Property (building and contents) insurance** covers the replacement and repair of things in the insured property. You should obtain contents insurance to protect goods and equipment in your premises from damage or theft;
- **Transit insurance** covers the replacement and repair of the insured item, for example art equipment stolen, destroyed or damaged during delivery or on loan;
- **Volunteer insurance** covers damage suffered by a volunteer in the course of his/her activity for you;

Click below for more information on your insurance obligations and remember to seek expert advice from your insurance broker before acting on any of the information provided in this article.

<https://www.smallbusiness.wa.gov.au/business-topics/employing-people/employers-obligations/#workerscomp>

Some good options to consider for Public Liability and other insurance options are:

AON Insurance for the Entertainment Industry:

<https://business-insurance.aon.com.au/Professions/Entertainment.aspx>

**Duck for Cover is a not-for-profit association** that was incorporated in October 1998 by a small group of performers who were finding the cost of arranging individual public liability prohibitive. They got together, got a policy and Duck for Cover was born:

<https://www.duckforcover.com.au/html/default.cfm>