

Devolution Guidance – 01 Insurance and other considerations



Context/ Overview

As responsible and accountable organisations all Town and Parish Councils, businesses and community, voluntary and social enterprises involved in managing local assets and or providing local services as part of Cornwall Council's devolution programme require insurance.

Why is it important?

However good management and organisational processes are, there will be instances where claims could be made against the organisation managing an asset or delivering a local service. Claims can arise for a number of reasons

- Injury or loss to a member of the public, a volunteer or an employee
- Injury or loss arising from the actions of an employee or volunteer

Insurance considerations

When providing service the organisation has a duty to provide adequate training and equipment for all activities undertaken.

Public liability

Public liability insurance covers you for claims made against you by members of the public or other businesses, but not for claims by employees.

While public liability insurance is not a legal requirement for some businesses, it should be considered essential if members of the public will be interacting with your organisation in any way.

Cornwall Council insists anyone carrying out work on behalf of the Council have £5 million Public Liability cover, unless it is an extremely low risk contract. This may be excessive for some duties but inadequate for others, again this will need to be discussed with your insurer/broker. Anyone carrying out higher risk activities should seriously consider having an increased level of cover – for example Cornwall Council has a limit of indemnity of £50m.

Owning / Managing an asset

If you own or manage a property or asset it is important to get adequate property insurance against things such as fire and storm damage including damage to contents and stock and potential loss of income. It may also be worth separate contents insurance and separate ICT insurance.

Employing staff

Organisations that employ staff are required by law to provide employers liability insurance for their employees.

Working with volunteers

A volunteer will usually be insured by the organisation they are volunteering for. If you are planning to deliver services with volunteers, you should seek advice about defining the role and good volunteer management. If they are volunteering as an individual, they may already be covered under the terms of other insurance policies they hold, but it is worth checking particularly if volunteers are using their own vehicle to deliver a service e.g. volunteer drivers.

Working with contractors

Organisations should expect a contractor's own insurance to cover the service to be delivered. During the tendering process all contractors should demonstrate that they have the appropriate cover for the work they will undertake and you should see (and obtain a copy of) their Certificate of Insurance.

Working in, on or adjacent to the highway

Your particular attention is drawn to situations and the legal requirements thereof where staff, volunteers or contractors are working in, on or adjacent to the highway. In all instances you are advised to seek copies of valid training certificates and qualifications.

Other considerations

In addition to these considerations listed related directly to devolution all organisations should ensure adequate insurance against issues such as:

- Money and Personal Assault
- Fidelity, Fraud and Dishonesty
- Trustee Indemnity
- Libel and Slander
- Data protection
- Officials Indemnity
- Legal Expenses

Demonstrating insurance is in place

In **all instances** Cornwall Council will require the lead local organisation to demonstrate that it has adequate insurance in place prior to any devolution deal being completed or asset transfer taking place.

How do we get the right insurance?

It is important that each organisation talks to their insurance provider at the earliest opportunity to discuss the potential impact of taking on an asset or a devolved service. In some cases there may be no increase in premium, for example if staff or volunteers undertake recommended training the organisation's insurance company may consider this sufficient mitigation of the risk.

By contacting the insurer each organisation will have an opportunity to gather all the information it needs to have an informed discussion about how to cost, manage, mitigate risks and deliver a service. It might be the case that several discussions are required as the service delivery plan is put together.

Each organisation will need to take advice from their insurer on the following

levels:

- Public Liability Insurance - the minimum level required is £5 million.
- Employer's Liability Insurance - This is particularly important if the devolved service involves potentially dangerous situations, for example, roadside working, working at height and working with chemicals (weed killers). Where an organisation already employs staff, this insurance should already be in place but devolved services may require enhanced insurance cover if other people are directly employed to deliver the service.

Insurance providers will deal with requests on a case by case basis and take into account how the service is being delivered such as by volunteers, staff or contractors or a mixed approach. Insurance policies can be purchased through insurers or intermediaries like brokers or trade associations.

Risk assessments

A general risk assessment of the planned services might be a helpful starting point for discussions with an insurer. As the planning of the services progresses councils will need to put together more detailed risk assessments and amend, add hazards and identify mitigations according to their own local arrangements.

This document is intended as initial guidance only and organisations are strongly advised to discuss their requirements directly with their insurance provider.

Guidance from the Health & Safety Executive (HSE) on Employers' Liability (Compulsory Insurance) Act 1969 can be found on their website:

<http://www.hse.gov.uk/pubns/hse40.pdf>

A PDF copy of this guidance is embedded in this document below:



hse40.pdf