

10 REASONS WHY NON PROFITS NEED BusinessGuard for Not for Profit Entities

1. Tailor-made policy for non-profits

Officers of non profit organizations are not immune from being sued personally and there is no limit on their personal exposure. **BusinessGuard for Not for Profit Entities** is specifically designed to provide insurance cover for defence costs, settlements and judgments for non-profit organizations, including charities, trade associations, management companies, schools etc. The policy covers directors, officers, trustees, volunteers, employees and committee members of the not for profit entity. In addition, unlike traditional D&O policies, it includes cover for the entity itself thereby protecting both the individuals and entity's assets.

BusinessGuard for Not for Profit Entities provides personal protection for directors, officers, volunteers and committee members for any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, omission, breach of warranty of authority, libel & slander or any other act committed by the insured solely in the course of the activities of the entity.

2. Personal Liability

Individuals' personal assets, their houses, savings and pension funds, are at risk, whether they have acted deliberately, negligently or innocently. Legal representation is expensive and awards can be large. Even if the organization foots the bill, individuals are likely to be affected personally.

BusinessGuard for Not for Profit Entities is not designed to cover dishonest or fraudulent acts, but if dishonest or fraudulent acts are alleged, **BusinessGuard for Not for Profit Entities** covers defence costs until an individual is proven guilty.

3. Director disqualifications

For both companies and companies limited by guarantee, directors can be disqualified for a range of circumstances including breach of filing requirements, fraud or unfit conduct. This means that they are not permitted to hold any managerial or directorial positions for several years. Even those directors who successfully defend disqualification proceedings will find the process stressful, expensive and time-consuming, lasting months, if not years. Details about disqualified directors are often published (for example on the Office of Director of Corporate Enforcement website) and include the director's name, address, date of birth and period of disqualification. And even after the disqualification period comes to an end, personal reputation and credit history are permanently damaged.

BusinessGuard for Not for Profit Entities is designed to pay for the legal defence costs as they are incurred rather than after the conclusion of any proceedings.

4. Investigations

In Ireland, the number of regulatory bodies that can investigate a non profit company, club, trust or other non-profit organization and its directors, officers, trustees and employees has increased dramatically. The list now includes the Office of Director of Corporate Enforcement, the Data Protection Agency, the Environmental Protection Agency and the Health & Safety Authority. The Office of Director of Corporate Enforcement considers hundreds of complaints each year. The individuals involved must co-operate and produce documents requested by the investigators and explain them, or face possible restriction or disqualification.

BusinessGuard for Not for Profit Entities will cover legal costs associated with the investigation – from the initial stages through the actual court proceedings, should it progress that far.

5. Criminal Liability

Liabilities don't just stop at individuals' personal assets - their liberty is at stake too. They could go to prison for their actions, inaction, mistakes, or ignorance. Criminal offences can include computer misuse, consumer fraud, theft, health and safety at work, and many other areas.

BusinessGuard for Not for Profit Entities cannot cover criminal penalties, which would be against public policy, but it can cover the costs of defending a claim up until the point guilt is established. And the very best defence is invaluable, but very costly.

6. Unfounded, Mischievous and Scurrilous Allegations

Innocence does not stop an individual from getting dragged into litigation. They can face allegations, unfounded or otherwise, which they must defend, and even unfounded allegations can be extremely expensive, time-consuming and stressful. It could be anybody - groups of activists or individuals - genuinely or maliciously targeting the organization or individuals and even if innocent, they still become embroiled in the lengthy legal process.

BusinessGuard for Not for Profit Entities covers the costs of frivolous law suits.

7. Past Present and Future

Investigators usually have statutory powers to compel any officer, director, trustee or employee, past or present, to explain information and documents. Actions can (and do) follow individuals. Retirement offers no escape, nor does death as directors' estates can be pursued.

BusinessGuard for Not for Profit Entities insurance covers past directors. Even when the policy is no longer in force, we cover individuals for a run-off period following retirement, as long as their cover was in place at the time of the alleged incident. Individuals who have resigned from an insured organization are also covered as long as the policy remains in force. This gives peace of mind, even after their time served.

8. Indemnification Restrictions in Ireland

Directors and officers of companies limited by guarantee often believe their company will fund their defence costs, but this is not always the case. Section 200 of the Companies Act states that a company cannot indemnify its directors or officers unless the director has successfully defended the action against him, which may take years.

Indemnification can be granted as per Section 391 of the Companies Act 1963 to a director involved in proceedings for negligence, default, breach of duty, or breach of trust, but only if the director can prove that he acted honestly, reasonably and ought fairly to be excused. This process can be time consuming and expensive. Even if the director has a contract stating he is entitled to indemnification from his company, unless a director has carried out what is required under the Companies Acts, it is within the company's rights not to fund defense costs. This is a major eye-opener for any director who thinks he is safe under the terms of his contract.

AIG will advance defence costs, thereby ensuring that the director or officer will not be out of pocket for the duration of the action. **BusinessGuard for Not for Profit Entities** insurance also provides cover for director's judgments and settlements in situations where the company either has or has not indemnified the director involved.

9. Sources of Claims

We have seen a significant increase in claims in the last 5 years; the following are some examples of possible sources of claims;

- Government departments may bring claims against officials for health & safety issues or environmental issues
- Restriction/Disqualification of directors by Office of Director of Corporate Enforcement (High Court)
- A sub-committees or fellow committee member could sue for mismanagement.
- Creditors could sue in cases where there may be a dispute.
- Libel & slander claims from other board members.
- Bullying & Harassment claims by committee members or sub committee members.
- Failure to keep proper books
- Accusations of fraud (until proven in fact)
- Membership disputes in clubs, leading to actions for wrongful suspension, bullying, land rights disputes etc.

10. And Finally...

In the context of management liabilities, there is a lot that can go wrong, and let's face it; many officers have got a lot to lose, as do their dependants. Individuals should not have to fund either their own defense costs or awards when facing an action against them in their capacity as employees or volunteers of a non profit organization.

At **AIG Europe Limited**, we understand the legal processes, and have the most experienced claims and underwriting teams in the Republic of Ireland. It's good to have the strongest and toughest in your corner when facing such a crisis.

AIG Europe Limited is authorised and regulated by the Financial Services Authority of the United Kingdom, and is regulated by the Central Bank of Ireland for conduct of business rules.