

Insurance Cover for Governing Bodies

For most governors there will come a point at which they may ask the question “What happens to me/us if this particular action (of whatever type is irrelevant) is challenged – are we legally liable or does the existing insurance policy for the school cover me/us?” In addition reading Governors’ publications such as the NGA “Governing Matters” means that we often encounter advertisements for insurance from commercial organisations and we wonder whether their cover is better than that which we currently have through the Local Authority and whether we should invest our limited resources further in order to safeguard ourselves.

We have therefore approached one of those “commercial insurers” for their observations which we reproduce verbatim and also, so as to be as even-handed as possible, we have a response from Dudley M.B.C. to those same observations.

It is not for us to make a judgement but rather to provide readers with sufficient information to enable them to either make their own minds up or to investigate the position still further should they so wish.

(a) The Commercial Option.

GOVERNORS LIABILITY – DOES YOUR L.A. PROVIDE ENOUGH COVER?

Unless you are an insurance expert would you ever query if your Local Authority provides enough cover for your Governing Body? Do they cover their own interests first, often being the owners of the building, direct employer of the Head and the one providing a legal service to your school? Amongst this conflict of interest who is protecting the Governors and their interests?

The main reasons for taking out Governor Insurance (to be used in connection with covers provided by local authorities) are;

The policy will provide a legal helpline for all eventualities. If a situation arises where you need independent legal advice or the L.A. is protecting their interests, and not the Governing Body’s this is a fantastic facility to have 365 days a year.

Public Relations Crisis Costs – if a serious event happened at your school, a death in the car park, a caretaker arrested for domestic abuse, a head suspended – would your Governors or your Chair have enough experience in this challenging time to say the right words to the press, not to be mis-quoted or mis-represented in any way? Probably not. This cover allows a professional specialist company to release press statements and draft media reports to help protect the reputation of the school and Governors.

Does the Local Authority have a condition in their Directors and Officers Insurance policy which means they will not cover your claim if you have breached governor law in any way? By taking out alternative cover you would avoid this exemption as specialist Governor Insurance should have no restrictions on unintentional or accidental breach of governor law.

Alternative cover is in force if a dispute with Local authorities arises or you feel a conflict of interest in the advice provided by your Local Authority - this can be especially important in HR matters.

Data protection cover for alleged breaches is a standard extension in a separate governor's liability insurance.

Breach of confidentiality is a new area where more claims could fall especially with Parent Governors who know other parents and family members and are part of the PTA. Could your Governing Body be accused or sued for libel / slander due to a careless remark to another parent?

Whilst a governing body is the legal entity what is the situation for a governing body if a governor acts without authority as an individual or outside their authorised brief? A specialist policy would cover all personal liability of individual governors for total peace of mind.

When Governors appoint, interview and decide on a new Head / Deputy Head and obtain references are they or could they be classed as an employer? What happens if they are employed and the references come back unsatisfactory – is this a Governor or LA problem? Cover for governors, if they have any legal obligation as employers, would be included.

All of the points above are really to challenge your knowledge of protection in force for your Governing Body and research if, for a small premium, you should consider additional insurance?

Do you even have a copy of what you pay for from the L.A. i.e. a copy of the full insurance policy wording and schedule? Many local authorities opt to have large excesses (over £100,000) – due to the current climate is the L.A. looking to settle their claims under their policy excesses in the most economical way possibly at the cost of the Governing Body's reputation / views?

Cover is available on-line based on the number of Governors on your Board, up to 16 Governors for £1m limit of indemnity cover is only £250 per year. At a time when budgets are so tight can you really be without this comprehensive cover, advice line and additional peace of mind?

(b) D.M.B.C. Response.

Governors Liability Policy, via Dudley's central and blanket insurance arrangements.

Dudley's liability insurance cover for School Governors falls under the wider auspices of its *Public and Employers Liability Policy* and is currently placed with Zurich Municipal. Briefly benefits comprising are as follows:

- Limits of indemnity levels of not less than £10m and up to £50m depending on the nature of the claim.
- A full claims handling service, administered locally in the first instance by Dudley's own Risk Management and Insurance Section and then Zurich based in Birmingham.
- Purchased via the *Traded Services Brochure* and are charged annually through the Council's internal accountancy functions. If schools do not buy back this service then they are not covered by this or any other centrally arranged policy.

Comments on cover offered by A Boswell

Notwithstanding the hyperbole and salesmanship, there are a number of elements within the offering which have merit.

Specific comments are as follows:

1. Legal 24hr Helpline – D.M.B.C. do not offer such a facility, but its Legal Services would be available during normal office hours.
2. Public Relations crisis costs – D.M.B.C. do not insure against such costs, but having sought advice from D.M.B.C. Communications Team, it would be put at the Governors' disposal at no cost
3. Breach of Governor Law: the flyer is quite ambiguous in para. 5 when it states their offering "should have no restrictions" (my italics). Does it, or doesn't it?
4. They are correct – there would be no cover to apply in the event of a dispute
5. Libel & Slander is insured.
6. Acting without authority: despite their blandishments, I do not think that an Insurer would gladly indemnify an individual Governor acting recklessly as individuals or outside their brief, regardless of what they have done – which is what is purported here. Such a guarantee against such irresponsibility would be against public policy; I would like to see the Insurer's policy wording addressing this point to be convinced.

Other general comments

DMBC's policy would not cover any dispute between the Authority and the Governing Body. Cover is arranged to protect against external threats to the Authority/Governing Body and not internal tensions or actions. I suggest and hope however that litigation of this nature (internal) would be highly irregular and unlikely.

With regard to value for money, it must be the Governors' decision as to whether they wish to purchase such additional cover. It should be noted that, such is the nature of the centrally arranged policy and the small premium associated with it, it would not be possible to give any discount on the policy purchased via *Traded Services*. In other words, were this or any other additional policy be taken out, there would be elements of dual insurance and added costs.

Governors should also be aware that other Insurers are able to provide such cover, and our comments cannot be seen to endorse (nor advise against) Alan Boswell in any way.

Issued by:

Sara McNally, Risk Manager. Tel. 01384 815346 sara.mcnally@dudley.gov.uk

John Hale, Insurance Officer Tel. 01384 814821 john.hale@dudley.gov.uk

Risk Management and Insurance Section, Directorate of Corporate Resources.

(We are extremely grateful to Zoe Kerswill of Alan Boswell Insurance Brokers Limited for supplying the Commercial Option article and to Sara McNally and John Hale of D.M.B.C. for supplying the response to it. Perhaps Governing Bodies should consider looking into their own position at some stage and include reference to it as part of the "new governor" induction process. Ed)