

## So your client can focus on what matters to their members

As an office bearer or director of an Association or other not-for-profit entities, your clients may be personally exposed to legal liability, regardless of the fact that their organisation is not a commercial entity seeking a profit.

Associations and their management are increasingly exposed to Management Liability claims ranging from employment issues, such as harassment, discrimination and wrongful termination, to business practices issues, such as misappropriation, financial mismanagement and negligence. These threats include claims from volunteers, employees, regulators, creditors, environmental groups, competitors and suppliers.

Horsell in conjunction with Chartis is pleased to offer you AssociationEdge™ an essential 'all-in-one' liability solution specifically designed for Associations and their directors, executives and employees (including volunteers). AssociationEdge™ offers the security of top quality D&O cover plus Fidelity, Company, Employment, Investigation, Crisis and Taxation Disputes cover.

Quite simply, we are proud to offer you the easiest way to assist your client so they can focus on what matters to their members with comprehensive yet cost effective coverage.

### Professional Liability Cover

Associations can have professional liability exposures for professional services provided to members or third parties without even realising it. For example lobbying and promoting the interests of members and the publishing of information in a newsletter or on a website. Even some membership benefits, such as basic personal insurance, could create a legal exposure if communicated incorrectly.

AssociationEdge™ covers your organisation for a professional breach of duty as well as misleading and deceptive conduct, fraud/dishonesty, intellectual property infringement or defamation claims.

### PrivateEdge® Advisory Panel

Free Advice - AssociationEdge™ Policyholders are entitled to contact a PrivateEdge Advisory Panel firm for advice on matters which are relevant to the cover provided under the policy. This service is provided free of charge, provided the advice does not involve a significant time commitment on the part of the member firm.

### Claims Handling Service

If an Insured is unfortunate enough to have a claim made against them, speedy implementation of a good defence strategy is critical. The PrivateEdge Advisory Panel firms have been pre-approved to defend covered claims. In the absence of any conflict of interest, and provided that the member firm's rates and other terms of engagement are reasonable, then consent to any PrivateEdge Advisory Panel firm acting on an Insured's behalf will be granted without delay.



### Insuring Covers

- Insured Persons
- Special Excess Limit (for Non-Executive Directors)
- Reimbursement
- Organisational Liability
- Professional Liability
- Fidelity

### Additional Benefits

- Bilateral Discovery Period
- Crisis Loss
- Defence Cost Advancement
- Discovery Period for Retired Insured Persons
- Fraud Investigator's Costs
- Heirs, Estates and Legal Representatives
- Investigation Costs
- New Companies
- OH&S Defence /Investigation Costs
- Pecuniary Penalties
- Pollution Defence/Investigations Costs
- PrivateEdge Advisory Panel
- Publicity
- Spouses
- Superannuation Trustees
- Taxation Disputes

### Key Exposures

- Breach of directors duties, including breach of the Corporations Act
- Occupational Health & Safety breaches
- Investigations by regulators
- Claims by stakeholders that the organisation mismanaged funds intended for them
- Employment Liability e.g. wrongful dismissal and/or sexual harassment of employees
- Theft of money by employees
- Breach of a statutory liability
- Breach of intellectual property

### Target Markets

Any Association or other not-for-profit entity

### To obtain a quotation/bind cover

Go to

[www.horsellonline.com](http://www.horsellonline.com)

or Phone

1300 556 826



## Frequently asked questions

### Why should I be concerned about management liability?

You don't have to be a director of a public company to be exposed to management liability. If you are involved in the management of a non-profit entity, you can be the target of a management liability claim concerning your day to day managerial responsibilities. Examples include claims made by employees in connection with their recruitment, employment or termination (including harassment and discrimination), investigations and proceedings brought by a regulator for a breach of company law or workplace safety regulations or a claim made by stakeholders that the organisation mismanaged funds intended for them.

### But what if I am involved only as a part-time director and receive no payment for my services?

Directors can be personally liable for a breach of their managerial duties and obligations as an accessory to a contravention by a company or in conjunction with a claim against the company, regardless of whether they were actively involved in the decision or are remunerated or not. Not only are the directors' assets at risk, any spouse, estate, heir or legal representative may also be exposed to a claim for management liability of such director or company manager.

### Won't the organisation defend or reimburse me?

Indemnities may be provided by a company to directors and company managers for the cost of defending proceedings brought against them. However, an indemnity may not be available to every person. Also, the directors and company managers may need to fund their own defence if the organisation is unable (because of insolvency or otherwise) or unwilling to make the indemnity available (if there are allegations of fraud or dishonesty or misconduct against the organisation).

### What about risks involved with using volunteers?

Directors, company managers and the organisation itself can be at risk of claims brought against them by volunteers in connection with harassment or discrimination claims. AssociationEdge™ provides coverage for these scenarios. In addition, AssociationEdge™ provides fidelity coverage for fraud by employees and volunteers.

### What about claims by beneficiaries?

Depending upon the type of services you provide, there may be a risk of beneficiaries seeking legal redress if they perceive they have not received services due to discrimination. You may also incur costs and be legally liable if a beneficiary makes a harassment claim on the basis of behavior by an employee or volunteer.

### Who is Horsell Distribution Partners?

Horsell Distribution Partners are a dedicated business unit of Horsell International Pty Limited\* and are recognised as one of Australia's leading wholesale product facility providers.

Our products are managed by an experienced team of professionals who are committed to ensuring that you can consistently provide your clients with leading edge insurance coverage at competitive premiums.

All insurance products are placed with financially strong APRA approved licensed Insurers with an S&P rating of A- or higher.

† Horsell International Pty Ltd is one of Australia's largest risk management and insurance broking intermediaries providing risk financing, insurance, risk management and claims management solutions. As a member of the Wells Fargo Global Broker Network, we have the capacity to provide excellent local service delivery through more than 10,000 team members, operating from 330 offices across 70 countries with the capability and resources to provide insurance brokerage services in 115 countries around the world.

## Insurance Gaps for Associations

Even when not-for-profits and associations do take out Directors & Officers (D&O) Liability insurance there are often gaps in that cover. Most D&O insurance is designed for public companies and does not cover claims against the organisation itself. With many not-for-profits and associations being cash-flow poor, this puts the organisation at risk in the event of a claim.

Associations and not-for-profits also face other risks that are not covered by D&O insurance - wrongful dismissal and sexual harassment, claims relating to the staff superannuation fund, crisis management costs etc. That's a whole range of risks that need to be covered, which is why we offer AssociationEdge™ - Management Liability Insurance for Non-profits entities, including associations.

## Examples of conditions that can take your focus away

### The National Safety Council of Victoria

"Any director questioning the value of directors' and officers' indemnity insurance should consider the unfortunate story of Max Eise.

When the Victorian division of the National Safety Council collapsed in 1990 with debts of \$255 million, each of its directors, who were acting in a voluntary capacity, was sued by the Commonwealth Bank.

The collapse was largely attributable to the fraud of managing director John Friedrich and it was arguable the directors were not really to blame.

Nevertheless, all but one board member settled with CBA out of court.

Eise, protesting his innocence to the end, opted to defend the action, lost and had a \$97 million judgement made against him.

Companies are not required to provide directors and officers cover for their directors. NCS did not have a policy in place and Eise, whose primary asset was his home, lost everything.

"An extract from an article by John Breusch, Australian Financial Review, "A little insurance goes a long way", 11th July 2001.

### Management Liability

#### Termination / Sexual Discrimination

Jane was a senior employee who believed that she had worked hard and contributed to the success of the business over a significant period of time. Yet when it came to her annual review, she had the impression that she did not seem to be offered the same opportunities that she would have received if she was not a woman. Jane complained to her manager that she was being unfairly treated. Shortly after, Jane was dismissed. Jane commenced employment proceedings against the company who ultimately settled the matter with a payment to Jane for an amount in excess of \$80,000 with legal costs exceeding \$35,000.

#### Harassment

An incident occurred at a company Christmas party. One of the employees complained of harassment. The employee was concerned that the complaint was not taken seriously and subsequently commenced proceedings which alleged that the company had failed to prevent the incident and take appropriate action when it was reported. The claim was settled out of court for more than \$50,000 with a similar amount spent on legal costs.

### Fidelity Cover

A company found accounting irregularities in its payment systems and in subsequent investigations it discovered the theft of \$400,000. It turned out that an employee had misappropriated the money and deposited it into a personal bank account. The costs of a fraud investigator were incurred to investigate and determine the quantum of the loss.

#### Important Notes:

1. The availability of coverage is subject to underwriting assessment.
2. Availability of coverage and the terms and conditions thereof may be subject to regulatory approval and/or underwriter's determinations.
3. The terms and conditions available may vary depending on the location of the applicant.
4. Any claims examples stated herein are purely fictional and are for illustrative purposes only. Any relation to or reference to any actual person, party or events is purely coincidental. It is important to note that each actual claim is unique. The nature of the claims examples herein (if any) should not be construed as any comment on, or confirmation or extension of, coverage for any past, present or future claim. Furthermore, these examples should not be relied upon to predict the outcome of any actual claims as all claims are evaluated on their own individual merits and subject to the actual terms and conditions of the relevant insurance policies.
5. This document is for your information and the description herein is a summary only. It does not include all terms, conditions and exclusions of the policies described. Please refer to the actual policies for complete details of coverage and exclusions.
6. This brochure is general in nature and should not be treated as advice. Should you require any advice on your insurance or coverage requirements you should consult your professional insurance advisor.

Insurance products and services provided by American Home Assurance Company, ABN 67 007 483 267, AFSL 230903, trading in Australia as Chartis. You should read the Product Disclosure Statement and consider the PDS in light of your personal circumstances, prior to making any decision to acquire the product. Horsell International Pty Limited, ABN 65 003 922 487, AFS License No 235130, distributes this product on behalf of American Home Assurance Company. In effecting this contract of insurance Horsell may be acting under an authority given to it by the insurer and will be effecting the contract as agent of the insurer and not the insured.

© 2009 Horsell. All Rights reserved

### Why choose Chartis?

Chartis is a world leading property-casualty and general insurance organisation serving more than 40 million clients in over 160 countries and jurisdictions. With a 90-year history, one of the industry's most extensive ranges of products and services, deep claims expertise and excellent financial strength, Chartis enables its commercial and personal insurance clients alike to manage virtually any risk with confidence.

Operating in Australia since 1957 Chartis has offices in Sydney, Melbourne, Perth and Brisbane. With over 50 years of experience in the Australian market, we currently protect many of Australia's largest companies, as well as many smaller businesses, professionals and consumers. During this time we have established an enviable reputation for developing market leading and innovative products that keep in step with new trends and directions in business. Our quality products, together with superior service, help us to achieve our goal of strong, sustainable relationships with both brokers and clients. We have one of the widest commercial product ranges in the market and will continue to respond when it really matters.