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## Facility RENTAL LIABILITY

**Municipalities that rent** their facilities to outside users are exposed to potential risks associated with the actions and/or operations of the outside users mainly because the municipality/facility operator has limited control over what the outside user does in the facility during the rental period.

Firstly, damages could occur to the facility and/or the equipment resulting from the actions of the outside user or their guests. Municipal facilities that do not use a formal rental agreement with a damage responsibility clause find it difficult to get the outside user to pay for the damages.

Secondly, liability for an accident/injury resulting from the outside user's activity would first fall on the outside user but would also draw the municipality into the claim should the outside user fail to have adequate insurance or assets to cover the claim.

As a Risk Management measure to reduce the municipality's and the facility operator's exposures and to transfer the risk to the user (where it belongs) HED recommends that municipalities use a formal rental agreement and require confirmation of liability insurance from outside users.

A formal rental permit form allows the municipality to state the terms and conditions for the use of the facility. Completion of this form by the user group also provides the mechanism to formally make the user group responsible for damages arising out of the use of the property by them.

Without a formal agreement there may be little recourse to recover for damages that occur at an outside user event. It also provides the means to make liability insurance available to the user, if they don't already have their own coverage.

Following recent incidents at Manitoba community halls where patrons were injured at the events, it was discovered that some rental agreements did not contain hold harmless clauses or requirements for renter's proof of insurance. Often renters do not have liability coverage for the event and should they be found liable for an incident, the facility's liability coverage may be called upon to respond.

All groups that are not directly controlled by the municipality or named on their policy and are using municipal property or equipment should be required to complete a "Permit for Use of Municipal Facilities" form.

If the outside user does not carry adequate liability insurance, coverage can be provided quickly and easily by adding the appropriate premium on the rate sheet for the specific event. This is simply added to the rental fees and a copy forwarded to the Municipal office and HED Insurance.

Copies of the Outside User Policy, application / rental permit form and the guidelines are posted on the AMM Extranet site at <http://www.hedinc.com/amm/pdf/OutsideUserPolicy.pdf>

The following are several questions from community hall / arena committees regarding the Outside User Policy:

### WHY DO WE NEED A FORMAL RENTAL AGREEMENT WITH A DAMAGE CLAUSE WHEN WE KNOW THE PEOPLE RENTING THE HALL?

The primary focus of the rental agreement is to make the outside user group responsible for damages to the facility and/or equipment by the implementation of a formal rental permit where the renter agrees to pay for any damages. This form also allows for a full description of the

period of use and itemizes any other terms of the rental including the rental charge, use of equipment, services to be provided and caretaking costs. It should also be kept in mind that even if the facility is insured under the municipal property/fire insurance program, there is a deductible of under the program that the facility would be responsible for.

### WHY DO OUR RENTERS NEED LIABILITY INSURANCE WHEN THE MUNICIPALITY HAS INSURANCE?

Confirmation of liability insurance coverage is a Risk Management tool to ensure that the responsibility for event liability for injury or damage is covered by the renter (where responsibility belongs) rather than the municipality/facility assuming the responsibility for the renter. In the event of liability claims related to the event,



the renter could be held personally responsible for the damages. If they do not have adequate liability insurance (or assets to cover the loss) the hall's insurance would likely end up paying for the remainder of the damages, even though the municipality/facility may not be directly responsible. Confirming liability coverage would also protect the renter from having to personally pay for damages.

## WOULD THE MUNICIPALITY'S LIABILITY INSURANCE COVER THE OUTSIDE USER FOR AN ACCIDENT RESULTING FROM THE OUTSIDE USER'S EVENT?

No, if the outside user is not part of the municipal operations named on their policy, the outside user would not be covered by the municipality's liability insurance policy. If the outside user does not have their own liability insurance the

principals or organizers of the group could be held personally responsible for damages. Buying liability insurance for the event or activity is an inexpensive and easy way to protect both the individual organizer's and the municipality's assets.

## DO WE HAVE TO REQUIRE RENTERS TO PROVIDE LIABILITY INSURANCE?

Some community hall committees are afraid that if they require the renters to buy insurance they will not rent the hall. While there may be a few renters that will decline to rent a hall because of the requirements, there are more that will be appreciative to have the insurance coverage made available to them that will protect them and their assets should someone get injured at their event and they are found liable.

## HOW MUCH LIABILITY INSURANCE COVERAGE SHOULD OUTSIDE USERS CARRY?

We highly recommend that all user groups have a Commercial General Liability insurance policy in the minimum amount of \$2,000,000. If the user group does not already have liability insurance coverage of their own, it can be applied for quickly and easily by checking the premium on the sheet attached to the rental form and adding the premium to the rental cost.

## DO WE HAVE TO CHARGE EVERY FACILITY RENTER FOR LIABILITY INSURANCE?

No, not every group or person renting a public facility needs to purchase additional liability insurance for all events. Many groups and individuals already have their own liability insurance. They simply have to confirm that by checking off the box "Applicant has and will provide confirmation of liability insurance."

## WHAT GROUPS ARE LIKELY TO HAVE LIABILITY INSURANCE COVERAGE?

- A) Most organized groups and associations (Scouts, Guides, Lions, and Kiwanis etc) already have their own liability insurance that would cover them for the rental of a facility for one of their activities.
- B) Most organized sports associations have their own liability insurance to cover them for sanctioned events in facilities that they rent. This would not apply to Ad Hoc adult recreation sports groups like the Tuesday night men's hockey league or for a fund raising social event.

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# Insurance

These ad hoc groups should apply for liability coverage for their group.

Coverage is available for the season.

- C) Community groups that fall under municipal operations and are named on the municipality's liability insurance policy are insured under the municipality's policy.

## WOULD MY HOMEOWNER'S INSURANCE POLICY COVER ME FOR RENTING A HALL FOR MY CHILD'S WEDDING?

Your homeowner's personal liability insurance may cover the homeowner for facilities rented for weddings, anniversaries, family gatherings and other personal events. Many policies will not cover such events, especially where liquor is served. Confirmation that your policy would extend to cover your event should be obtained in writing from your insurance broker and a copy provided to the facility operator.

Your homeowner's policy would not extend to cover a group you are a member of, for their activity even if you personally rented the hall.

The primary objective of the Outside User Policy is the use of a formal rental agreement that includes a responsibility for damages clause and a hold harmless / indemnity clause where the renter agrees to pay for any damages and to indemnify the Municipality for all claims for damages arising from their use of the facility.

## IF THE USER DECLINES THE LIABILITY INSURANCE OFFERED, THEY MUST AGREE TO OBTAIN OR PROVIDE THEIR OWN INSURANCE FOR THE EVENT AND PROVIDE PROOF OF INSURANCE BEFORE THE DAY OF THE EVENT.

### MEASURES TO PREVENT LOSSES:

1. Require renters to provide proof of liability insurance or purchase insurance to cover the rental event. Coverage is available through HED by simply faxing in the request.
2. Include a hold harmless clause in your rental permit.
3. Include a Damage Responsibility agreement in your rental permit to ensure that renter accepts the responsibility to fix or pay for any damages incurred during the rental event.
4. Require all bartenders working the event have a current "It's Good Business" certificate issued by the Manitoba Liquor Control Commission.

5. Require security guards to be employed at all events where liquor is served (i.e., two security guards for up to 200 people, three security guards for up to 300 people and one for every 100 people thereafter.)

6. **All personnel working as security must now be provincially licensed Security Guards.** We strongly recommend that a licensed and bonded security guard company with at least \$5,000,000 liability insurance be con-

tracted for this service. This will help transfer liability for security-related incidents away from the renter and the municipality / facility.

Please pass this article onto your facility committees for their information. **L**

If you or your facility manager / operator / committee have any further questions please contact **Ken Fingler** (Ext 7279) or **Linda Baker** (Ext 7220) at HED Insurance at 1-800-665-8990 for further information.

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