

Insurance Information Sheet

BACKGROUND

In New Zealand, insurance offered by exercise facilities does not normally cover contractors, so any person who is not an employee of a facility but is offering services, or any exercise professional who is self employed, is exposed to many of the same risks of any other business. Specifically, an independent contractor or self employed person can be directly sued by a client, or prosecuted and fined by a government enforcement agency (such as OSH, or the Commerce Commission).

There is a common misconception that insurance is not needed in New Zealand, as ACC covers all such incidents. **This is incorrect.** There are many risks that ACC does not cover, and in fact even for the areas that ACC does cover (personal injury resulting from exercise) there is a possibility that an individual can seek exemplary damages over and above any compensation received from ACC.

In situations where injury occurs, OSH may also undertake an investigation which could result in substantial defense costs and fines against the exercise professional.

For these reasons, and to also offer protection to both the public and exercise facilities, insurance is included with all Personal Trainer Contractor registrations. In addition any contractor (such as a group exercise instructor) can purchase insurance on top of their registration for \$168 + gst per year. You do not need insurance if you are an employee (you are covered by the workplace insurance).

Some Frequently asked Questions

What activities are covered ?

All activities related to working in a capacity as an exercise professional are covered as long as you list them on the "Activities" question of the insurance section. You may also include activities such as sports massage and sports coaching and your insurance will cover this (note: we do not register you to do these activities, but the insurance will cover you for them).

Am I covered when I work outside a facility ?

Yes. You are covered for all exercise professional activities wherever you may be in New Zealand – in an exercise facility, on private property (i.e. in homes) or at a public place such as a sports field or church hall.

Who offers the insurance ?

Lumley General Insurance (N.Z.) Limited

Types of Cover Provided

Professional Indemnity

Professional Indemnity Insurance provides protection for businesses and professional persons in respect of legal liability arising from the conduct of their practice or business. Specifically coverage is provided for:

- Settlements by or judgments against the business or professional person arising out of negligent advice or services.
- Legal costs and expenses associated with the defense of legal action.

Cover Level: \$2,000,000 (2 million dollars) in the aggregate Excess: \$2,000 **Cover is for New Zealand**

Claim Example Scenario: A client of a personal trainer alleges that the programme developed for them was not suitable, resulted in permanent injury and as a result they have had to sell their business, which they could no longer operate. They are seeking damages for the financial loss suffered.

Public Liability

Public Liability Insurance provides protection for businesses and individuals against claims for compensation in respect of unexpected or unintended personal injury or property damage for which they become legally liable, arising out of their business activities. The policy also extends to cover the costs of defending these claims in court, as well as any necessary investigations or negotiations.

Cover Level: \$1,000,000 (1 million dollars) any one occurrence. \$250,000 for Care, Custody and Control Excess: \$1,000 **Cover is for New Zealand and Australia (exemplary damages New Zealand only)**

Claim Example Scenarios: An allegation that a tap was left on by the personal trainer resulting in water damage to the gym, failing to turn a heater off which resulted in fire damage to the gym, or accidentally dropping a weight causing injury to a client or other member of the gym.

Statutory Liability

Statutory Liability Insurance provides protection to businesses for:

- Defense Costs associated with alleged unintentional breaches of the Health & Safety in Employment Act, the Building Act, Consumer Guarantees Act, Fair Trading Act, Privacy Act and most other statutes affecting commercial activity
- The costs of representation at an investigation or inquiry.
- Any fine or cash penalty payable by the insured following conviction for an offence under the insured statutes (except the health & safety act).

Cover Level: \$1,000,000 (1 million dollars) in the aggregate. Excess: \$2,000 **Cover is for New Zealand**

Claim Example Scenarios: Breaching the Privacy Act by accidentally leaving a client file in the gym area and another customer viewing this file. The client complains to the Privacy Commissioner resulting in a fine and substantial defense costs. This policy also covers claims of “misleading conduct” from advertising under the Fair Trading Act.

This document is designed to give an overview of the insurance cover on offer. For full details please see the Policy Document (available from REPs). The policy document takes precedence in all cases.