



# WINTER 2022/23 BULLETIN

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Are you undertaking a trustee role?



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In this bulletin, we draw your attention to the insurance considerations surrounding any roles you fulfil in a personal capacity, e.g. a voluntary organisation, an estate or even sports or social clubs (whether a registered charity or not), where you are utilising your skills and professional activities, whilst serving on that organisation's committee or board, as a Chartered Surveyor.

## What liabilities might arise from this role and is there an insurance solution?

There are two areas you need to think about; 1) your professional liability and 2) your liability as a Trustee, Director or Officer.

The legal obligations and liabilities arising therefrom can be insured, but you need to look closely at this. We explain why here:-

### Your professional liability

Does your/your Practice's Professional Indemnity insurance (PII) policy cover the professional liability exposure of advice/services provided in a personal capacity, as an adviser to a Trust, or as Trustee, Director or Officer?

The majority of the time, the answer here is NO. This is because there is no automatic cover under these policies for any liability that may attach to you in your personal capacity.

The policy will, in simple terms, cover your legal liability as a Chartered Surveyor working on your Practice's behalf.

### What about an extension to the policy?

A possible solution for this is to look for an Extension on your Practice's PII policy.

You must declare to your insurers whether this work is undertaken pro-bono or for a fee payable to the Practice, but it should be possible for the Practice to agree with Insurers a suitable extension (we stress, for your professional services as a Chartered Surveyor only).

However, you must liaise with your Broker/Insurer to discuss and agree on this beforehand.

### Your liability as a Trustee, Director or Officer?

Undertaking roles such as a Trustee, Director or Officer, will place upon you additional liabilities and obligations, where the duties owed to beneficiaries, members and stakeholders are far more onerous than those owed to your Chartered Surveying clients and the public at large.

## Still being asked for 'advice'?

If you are to take on the role of Trustee, Director or Officer, you may likely be relied upon as a "professionally qualified" person.

Therefore, you must ensure clarity around your role and define the boundaries of what constitutes advice as a Chartered Surveyor and what doesn't.

For example, if you are then being asked for advice concerning your professional services in connection with, e.g. building projects or planning that the organisation wishes to undertake, then circumstances could arise where you find you have a conflict of interest between your role as a Chartered Surveyor and your role as a Trustee, Director or Officer.

Importantly, if your Practice doesn't have an extension to their PII policy, you could find yourself uninsured if a claim arises against you.

If you are in any doubt about this, you should seek legal advice. You may even be advised to resign as a Trustee, Director or Officer for the period that you provide your professional services.

## What if your role goes beyond that of a Chartered Surveyor?

Your business experience, coupled with your expertise, may be such that you feel you are suitable to undertake a role beyond the scope of a Chartered Surveyor.

In this instance, a Practice's PII policy will not provide cover, even if the extension is granted, for those activities deemed to fall outside those associated with a Chartered Surveyor's professional services.

## Trustee Liability Insurance

Appropriate Trustee's Liability Insurance (and/or Directors & Officers Liability Insurance) should therefore be arranged for the entire committee or board to cover those liabilities that can arise as a Trustee, Director or Officer. These will include both common law liabilities and statutory and regulatory liabilities.

As mentioned above, we'd stress that you speak with your Broker/Insurer further to consider the potential liabilities and the available insurance solution.

### In closing...

In further bulletins, we will dig deeper into what Trustee Liability Insurance is and what it covers. In the meantime, please be aware that we do arrange specific Trustee Liability policies on behalf of boards/committees, including those on which CAAV members might sit.

We'd ask that you do not hesitate to contact one of the team below should you wish to discuss further or if you have any questions.

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