

Report from Newspace Services - insurers for NSALG Annual Scottish Allotments Conference 2008

Although we do not have any specific information relating to the responsibility for allotment insurance we have found that many associations are under the false belief that because they are only renting the land, they have no need to insure themselves.

The reality is a little more complex.

Whilst many landowners (including council run sites) will have insurance covering the land itself and the legal responsibility of the land owner, this will not extend to cover the activities of the tenants.

An example of this is from a recent claim from an allotment site in Hull (who fortunately had their own insurance in place via ourselves. A Jogger took a short cut across the allotment site, tripped over a discarded fence post (left by the allotment society). She fractured her arm and had to give up her job as a nursery nurse as she was unable to lift children. She sued the allotment society and the council for damages. Although the council was found not liable (as they did not discard the post) they still had to pay their own defence costs and the Allotment Society was found legally liable for the injuries.

The total claim against the society was f 88,000 - most of which were legal costs as the claimant only received £26,500 for her injuries. This claim was picked up by Insurers but had insurance not been in place the allotment society would have been forced to ask their members for contributions towards paying the claim.

Although this is an unusual example of a high value claim, it does go to show that these things can happen on an allotment site. The average value of a typical public liability claim is approx f3,000 and normally relates to minor incidents such as damage to private vehicles caused by the use of rotavators or mowers, or from bonfires getting out of control. We are also frequently asked about Employers Liability Insurance as there seems to be some confusion who needs this cover. This is a compulsory insurance for any one who employs another person.

In respect of groups and association this is a grey area as many associations are staffed by volunteers. This does not remove the necessity to insure as any volunteer who is injured whilst working on behalf of the association can sue for damages, although loss of income may not be an issue, payments can still be demanded for pain and suffering.

Although claims are few and far between they can be expensive to settle. We are currently handling a claim for a plot holder who started work early on a working party and was injured whilst working alone. Insurers have accepted liability for the injury as no specific instruction was given telling him not to start before the rest of the working party arrived and therefore no instruction was given to him regarding the activities he should be doing or the safe method of doing these. A reserve amount of £14,000 has been set by Insurers pending settlement.

Responsibility for arranging Employers Liability Insurance falls to the employer - whether that be the council, the landowner or the allotment society. The HSE can issue fines of up to f.5,000 for each day that this insurance is not held, should they deem that cover is a legal requirement. Having said this, the HSE have refused to say either way if an allotment society would be classed as an employer in the event of an injury and would assess each case on an individual basis.