



TOKIO MARINE  
HCC

# Management Liability Insurance

## Residents Associations / Management Companies



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# ML for Residents Associations / Management Companies

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Tokio Marine HCC, provides a scheme for Management Liability Insurance for Residents Associations / Management Companies.

Residents of a block of flats or other residential type property may have formed a management committee or perhaps a more formal Residents Association company to oversee the running of their building. The members of such a committee or association may act in the capacity as Director, Company Secretary, Trustee, Non Executive Director or other similar "Officer" role. They are often unpaid volunteers.

People appointed as Directors and Officers hold positions of trust. They will be liable for any act, which is negligent, outside their authority, or in breach of their own responsibilities. Directors and Officers should be aware that they can be personally liable for their acts and without insurance are effectively risking their personal wealth and the future of the association, since the financial implications of a legal action can be disastrous.

The residents in their capacity as Directors or Officers face numerous duties and responsibilities, even if the services of a managing agent are employed, some of which are defined in law. In fact the introduction of the Multi Unit Developments (MUD) Act 2011 requires Directors to have a more active involvement in the decision making and strategic management of the development.

## These responsibilities include the need to ensure that

- The property is safe and any lifts are regularly inspected to meet statutory requirements (compliance with Health & Safety legislation)
- Any contractors used to carry out maintenance at the property, do so properly
- Finances are in order, as the Directors or Officers can be held responsible for the debts of the association or company if he/she knew, or ought to have known, that there was no reasonable prospect that the company would avoid going into insolvent liquidation.

Directors will now also have far greater responsibility for ensuring value in the selection and delivery of services to the development and cannot enter into contracts for a fixed period greater than three years.

The law does not distinguish between the Director of a Residents Association and that of a major corporation. Ignorance of the law is no defence, so it is important for any resident wishing to take a position of responsibility to know the liabilities that they face. Especially as these liabilities may be unlimited.



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## What is covered?

- Liability from a wrongful act – where there is any actual or alleged wrongful act or omission by a committee member, directors or officers individually or collectively.
- Costs and expenses, with prior agreement of the insurer, that are incurred in investigation, settlement, defence or appeal of a claim.
- The policy is on a claims made basis – the policy will only respond to claims discovered and notified to the insurer during the policy period.
- The limit of insurance is aggregated, and the policy lasts for 12 months, unless otherwise stated.
- The policy will cover defence costs and if a Director or Resident Association Committee Member was found to be neglectful of their duties, damages would be awarded. (The policy will not respond to fines, penalties and punitive or exemplary charges).
- The probability of a claim being brought against the Directors and Officers of a company has increased because of the development in legislation.

## Examples of Exposures

- Safety, Health & Welfare at Work (2005) - fire safety, electrical and mechanical equipment checks
- Multi Unit Developments Act 2011
- New Companies Act 2014
- Insolvency Act (wrongful trading)
- Disability Discrimination Act
- Dishonesty to fellow directors
- Failure to supervise
- Racial and sexual discrimination
- EU directives and regulations

Due to the above exposures, Management Liability cover is needed to insure the Directors and Officers of the Residents Association against any claims made against them.

## Why Tokio Marine HCC?

- As part of a premier company with truly global resources, we are in an unprecedented position to enhance the services we offer through a greatly expanded geographic footprint, and to reinforce the commitment that goes into everything we do.
- What does this mean to you?  
We stand ready and able to help more clients in more ways than ever before.

# Management Liability Insurance

## Claims examples

Management Liability insurance provides cover against a wide range of potential legal actions which may arise in the course of carrying out company duties. Claims against the company can be serious for private businesses, and for their owners who may have personal investments in the company. Examples of these claims are:

- An unruly family bought a flat in an otherwise select block. The owner of an adjacent flat immediately put her property on the market and alleged that she had been forced to sell for less than the true price. She is suing the Chairman and Secretary of the Management Company on the grounds that they failed to discipline the family, who had clearly intimidated her
- A Management Committee was held liable for failure to appoint a responsible builder to re-roof a large block of flats. The firm concerned botched the job and went into liquidation shortly afterwards. The work was so poor that most of it had to be done again
- Residents of an apartment building made a claim against the trustees of their Residents Association, alleging that they had misused funds collected from the residents. The residents claimed this meant they had to pay additional money to the association.
- Residents made a claim against the trustees of their Residents Association, alleging they had failed to implement correct safety procedures following investigation by the Health & Safety Executive

## Contact

### Frances Eaton

Senior Underwriter - PI  
York House  
York Street  
Manchester M2 3BB  
Tel: +44 (0)161 393 6686  
featon@tmhcc.com

### Colin Brown

Senior Underwriter - PI  
Fitzwilliam House  
10 St. Mary Axe  
London EC3A 8BF  
Tel: +44 (0)20 7680 2985  
cbrown@tmhcc.com

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To Be a **Good Company**