

Minutes

Eamon - Insurance

Slide:

- How do I find out whether the insurance policy is valid?
- Are there other types of insurance that our Management Company should have – or do we only need block policy insurance?
- I live in a house and am part of a Management Company – what insurance should I have?
- How can I be sure the complex is adequately insured? Could it be under or over insured?

How do I find out whether the insurance policy is valid?

As an apartment owner you are in possession of a very valuable property which is probably heavily mortgaged and which needs to be adequately and appropriately insured. In general it is the directors of the Management Company's responsibility to arrange the insurance covers for the development.

An apartment block insurance policy is generally arranged on the basis that each owner is an equal part shareholder in the policy. Therefore, each owner is fully entitled to know exactly what the policy covers in the same way as if it were their own house. Any queries regarding the policy cover should be directed to the development's Management Company, Managing Agent, Insurance Broker or Insurance Company as each of these parties will have a full copy of the insurance policy documentation. Do not be afraid to ask questions as it is **YOUR** insurance policy for which **YOU** pay an annual insurance premium.

When you bought your apartment your solicitor and Mortgage Company would have checked that there was an insurance policy in place covering the property and they would also have been provided with an Interest/Indemnity Letter confirming your interest had been noted as an owner and as an insured party under the policy. However, at the following renewal date how do you know as the owner that the policy has been renewed? I would recommend that this matter should be raised and the policy renewal position confirmed in the minutes of each annual general meeting.

Are there other types of insurance that our Management Company should have – or do we only need block policy insurance?

In addition to the block policy for the development the Management Company should have Management Liability (Directors & Officers Liability) cover and Engineering cover in place.

I live in a house and am part of a Management Company – what insurance should I have?

As a general rule houses are **not** covered by the block policy. However, insurance policies do vary so read and check your carefully. It should also be noted that houses can be covered by the block policy depending on the wording of the property purchase agreement.

How can I be sure the complex is adequately insured? Could it be under or over insured?

Buildings should be professionally valued on an "Insurance Reinstatement Basis" every 3/5 years and policy sums insured should be index-linked during the intervening years.

Block policy limits for Public Liability, Employers Liability and Management Liability (Directors & Officers Liability) should also be review on an annual basis.

Questions from the Floor

Q: Aubrey Anderson - Member Director and Insurance Broker - Why is professional indemnity so important for Management Agents and other professional bodies?

A: Any company providing professional advice to the apartment owners, including Managing Agents, should have a Professional Indemnity policy in place to protect the owners against financial loss should the advice provided prove to be erroneous or flawed.

Q: Apartment owner – We have block insurance but what should I personally be covering myself for?

A: You should arrange a separate Contents policy to cover your personal possessions. In general, anything that is not fixed or fitted within the apartment should be insured by the Contents policy. For example, fitted kitchens, timber floors etc. are usually deemed to be structural and, in general, are covered by the block policy. However, everything else that you have put into the apartment i.e. carpets, curtains, white goods etc. should be covered by your Contents policy as these would **not** be covered by the block policy. Any specific queries in this regard should be addressed to your insurance broker or insurance company.

Q: Are tenants covered by Public Liability insurance?

A: Your legal liability to your tenant or any other third party, as an apartment owner, is covered by the Public Liability section of the block policy. The legal liability of your tenant is **not** covered by the block policy. If you are a landlord/investor you should let your tenants know the position and suggest to them that they contact an insurance broker or insurance company with a view to arranging to insure their own personal possessions and legal liability.

Apartment Block Policy – Brief Cover Summary

Buildings - Covers damage caused by an Insured Peril, including Accidental Damage, to apartments including any commercial units and in some instances houses.

The block policy sum insured must be adequate to reinstate all buildings, garages, outbuildings, drives, patios, roadways, footpaths, walls, gates etc., etc. at the development. The property should be insured on an "Insurance Reinstatement Basis" and not on a "Market Value Basis" as this could be multiples of the rebuilding cost.

Alternative Accommodation - If an apartment is damaged and made uninhabitable by an insured cause or if access to the apartment is denied due to damage elsewhere within the block, the policy will pay the **reasonable** additional cost of **comparable** accommodation during the period necessary to restore the apartment to a habitable condition..

Loss of Rent - If an apartment is damaged and made uninhabitable by an insured cause or if access to the apartment is denied due to damage elsewhere within the block, the policy will pay the rent that the owner would have received during the period necessary to restore the apartment to a habitable condition.

Contents of Common Areas - Covers the contents **owned by the management company** and contained in the Apartment Block, Outbuildings or Garages at the development.

It should be noted that the block policy **does not** cover the owner's personal contents or the personal contents of any tenant.

Public Liability - Covers the legal liability of apartment owners for accidental bodily injury to any third party occurring in or about the apartment block including all common areas.

Employers Liability - Covers the legal liability of apartment owners for accidental bodily injury to any employee occurring in or about the apartment block including all common areas.

Other Policy Covers – Brief Cover Summary

Management Liability (Directors & Officers Liability) - Directors of Management Committees, including Committee Members, can now be held personally liable for the failure to perform their fiduciary duties. Therefore they can be held personally liable for any damages and/or legal costs incurred putting their own personal assets at risk. Insurance cover is available to protect the Directors of Management Committees for their potential exposure to claims brought against them for any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, omission, breach of warranty of authority, libel, slander or any other act committed in the course of carrying out their Management Company activities.

Sources of potential claims would be as follows:-

- Government departments may bring claims against officials for Health & Safety issues or Environmental issues.
- Apartment owners or groups of owners could sue for mismanagement or for breach of apartment development rules.
- Sub-committees or fellow committee member could sue for mismanagement.
- Creditors could sue in cases where there may be a dispute.
- Libel/Slander claims from other committee members or apartment owners.
- Bullying/Harassment claims by committee members or sub-committee members.
- Failure to keep proper books of accounts.
- Disputes between the Developer and Management Committee may lead to claims.
- Accusations of fraud (until proven in fact) may need to be defended.

We would recommend that apartment owners should not serve on management committee unless there is a Management Liability (Directors & Officers Liability) policy in place.

Engineering - Provides for the Statutory Inspection, by insurer's engineer, of Passenger Lifts in the development. Engineering cover may also be required to provide Sudden/Unforeseen Damage cover for Passenger Lifts or any other Electrical/Mechanical Plant of high value i.e. large water pumps etc. at the development.

Motor - This cover would be required if the development own any motor vehicles i.e. small vans, refuse trucks or forklifts.

Claims Examples

Sample of some apartment block insurance claims currently being dealt with:-

- Three fire claims estimated at €250,000 each including Alternative Accommodation/Loss of Rent.
- Tenant fell out of window to have a cigarette and fell 4 storeys - now paralysed.
- Child electrocuted and died when they came into contact with a live low level pedestrian light.
- Postman slipped on water in common area that was being cleaned and suffered back injury.
- Cleaning employee got stuck in Passenger Lift for a number of hours and suffered trauma.

Claims Reporting

It is imperative that any loss/injury which occurs at the development be reported immediately to the development's insurance broker or insurance company.

All owners have a duty to keep insurance claims to a minimum as if the development has a poor claims experience premiums and policy claims excesses will increase.

Policy Conditions and exclusions

All insurance policies contain conditions and exclusions some of which are as follows:-

- Policy Claims Excess (Portion of claim that the owner must pay following a loss).
- Policy does not cover gradual deterioration, wear and tear etc. and should not be seen by owners as a maintenance contract.
- Owners are required repair any defect in their property, as soon as defect noticed, and to take all precautions to prevent further damage to the property.
- There is a policy condition requiring that the property is maintained in good repair and that all reasonable steps are taken to avoid damage.

Health & Safety

In an apartment block development health and safety is everyone responsibility. If any owner notice a defect in the common areas, a problem with the fire alarm, fire doors not working correctly, syringes in common areas, anti-social behaviour etc. they should immediately report the matter to the management committee, managing agents or relevant authority.

Finally

Should apartment owners not obtain satisfaction regarding any insurance matter or have cause for complaint they should contact either the Irish Insurance Federation or the Financial Regulator.