**Volunteer insurance cover offered by NPWSSA and the**

**Department for Environment and Water (DEW)**

Any community volunteer group that is participating in an **approved DEW (NPWSSA) business activity** (i.e. approved by regional management), regardless of the location, will be provided with insurance and public liability cover by DEW. This is ‘activated’ through staff utilising the DEW policy and procedure - Volunteer Safety Framework (VSF).

**The insurance arrangement**

Volunteers across South Australia work on projects that make a significant contribution to the management of the state’s natural and heritage assets as well as engaging with local communities. In recognition of this, DEW has an agreement with the State Government to provide volunteer insurance cover to volunteer activities that are in direct strategic alignment to the DEW Corporate Plan and/or Regional NPWSSA Plans.

In this scenario DEW has legal obligations under the *Volunteers Protection Act 2001* which states:-

*‘…A volunteer incurs no personal civil liability for an act or omission done or made in good faith and without recklessness in the course of carrying out community work for a community organisation.’*

Therefore, any civil liability incurred would attach to the community organisation to which the volunteer is associated - in this case DEW. This would be covered under the Volunteer section of DEW’s agreement with the insurer. This extends to include volunteer group committee members.

**The Insurer**

The South Australian Insurance Corporation (SAicorp) is the captive insurer for the Government of South Australia. It provides comprehensive insurance protection, insuring the risks of South Australian Government Agencies and provides insurance advice and assistance to those agencies.

DEW has an agreement with SAicorp to provide a level of volunteer cover to registered volunteers working on projects endorsed by DEW staff.

**The insurance product**

Volunteers are considered workers under the *Work Health and Safety Act 2012*. Personal accident cover for volunteers is similar to compulsory Return to Work cover for paid employees however volunteers are not considered as workers for workers compensation purposes.

The insurance cover offered to volunteers under DEW’s agreement with SAicorp includes:-

1. Personal Accident Cover (bodily injury)

2. Civil Liability

Benefits for personal bodily injury or death are equivalent to the benefits that would have been payable to a worker under the *Return to Work Act 2014* (the Act) if the Volunteer were an employee of DEW.

Any liability to a third party arising from the action or advice of a volunteer acting in accordance with DEW instruction is treated as if the action or advice where that of an employee.

**Who can be covered by the insurance?**

Volunteer insurance cover is not unconditional. It is approved for specific activities and is reviewed and endorsed on a case by case basis, usually annually.

Volunteers will be covered by this insurance only when DEW staff have endorsed the volunteer activities, either through the DEW Volunteer Safety Framework or independent volunteer group insurance process.

Volunteers that work in direct partnership with DEW will operate within the Volunteer Safety Framework procedure. The insurance cover begins when DEW staff endorse the activities planned to be undertaken by volunteers as captured on Form 1 of the Volunteer Safety Framework procedure. It is the responsibility of the staff member to complete the documents.

Volunteer groups that work independently of DEW but their activities contribute to DEW business or targets in the NRM Plan may receive insurance cover. This requires agreement and documentation between parties involved and is captured through an annual application for volunteer insurance.

**Covers provided:-**

**1. Personal accident cover (bodily injury)**

Personal accident cover will provide a level of compensation to a volunteer should accidental bodily injury or death occur whilst engaged or undertaking voluntary work authorised by DEW staff.

**What it covers:**

* Registered volunteers following accidental bodily injury or death while volunteering. Benefits are paid on an out of pocket basis after other entitlements have been used with regard to medical and reasonable rehabilitation costs. Note, other entitlements include Medicare, private health insurance, personal insurance, superannuation, employment sick leave entitlements, compulsory third party bodily insurance and so forth.
* Lump sums for death or serious disability which are paid on the same basis as the Act.
* Weekly income is paid to volunteers who can demonstrate a loss of income. Benefits take account of actual lost income up to the Act ceiling of twice the State Average Weekly Earnings. For long-term incapacities, benefit reductions in line with the Act rules apply.
* All benefits, except weekly income benefits for long-term incapacities, are payable regardless of age.

**What is not covered:**

* No benefit is payable in respect to the gap between payment made by Medicare and charges incurred.
* Damage to equipment or property other than during the incident that caused the bodily injury or death (e.g. tools stolen from a shed).
* Claims following a bodily injury or death if, if the injury is wholly or predominantly attributable to serious and wilful misconduct on the part of the worker.
* Claims following a bodily injury or death, if the injury is wholly or predominantly attributable to the influence of alcohol or a drug voluntarily consumed by the worker (other than a drug lawfully obtained and consumed in a reasonable quantity by the worker).
* Claims involving vehicle accidents that occur between home and the place of work.

**2. Civil liability cover**

Civil liability cover is insurance to cover the legal liability to pay or indemnify volunteers, DEW if they are sued for negligence or a civil claim is lodged for damages under common law, contract or statute. The cover amount is without limit.

**What it covers:**

* Liability of a registered volunteer following an action that results in personal injury, death, damage or loss to a third party.
* All legal costs, charges and expenses incurred in the management of a civil liability claim where such costs, expenses and charges are incurred by SAicorp or DEW with SAicorp’s prior written approval.

**What is not covered:**

* Civil claims against the organisation or an individual for defamation.
* Claims that fall within the ambit of a scheme of compulsory third-party motor vehicle insurance.
* Claims where the volunteer's ability to carry out the work properly was, at the relevant time, significantly impaired by a recreational drug.
* Claims where the volunteer was acting, and knew or ought to have known that he or she was acting, outside the scope of the activities authorised by the community organisation or DEW.
* Claims if the volunteer was acting, and knew or ought to have known that he or she was acting, contrary to instructions given by the community organisation.
* Claims involving vehicle accidents that occur between home and the place of work.

**Making a claim:**

Volunteers discussing the incident with medical practitioners should not indicate this is a WorkCover related claim/incident.

To make a claim volunteers will need to provide detail of the incident and details of all medical treatment including dates, practice attended, fees incurred and personal benefits utilised and out of pocket expenses.

NPWSSA staff can assist with lodging a claim to SAicorp.

**Non-payment of Medicare Gap Explained**

*Exerts reproduced from 2015 article produced by* ***Aon Insurance****, approved broker of Volunteering Australia*

**“ Non Medicare expenses for Not for Profits**

…while workers’ compensation legislation covers paid workers if an accident happens, what if you’re a volunteer? What are the insurance limitations and where do you stand as an employer of volunteers/

There is no existing legislation at the federal or state level that says organisations must take out Volunteering Insurance. Not for Profits can take out Not for Profit insurance for general cover and most organisations take out a Voluntary Workers Personal Accident Policy, which covers accidental injury or death. But this leaves a gap because it only covers non Medicare medical expenses like dental, ambulance, chiropractor, physiotherapy, osteotherapy, private hospital accommodation costs and the like. Because of legislation, insurers cannot cover any out of hospital expenses that have a Medicare component.

It’s not as if this is a new thing – when the government introduced Medicare it amended the National Health Act (1953, Commonwealth), the Health Insurance Act (1973, Commonwealth) and later the Private Health Insurance Act (2007, Commonwealth), ensuring insurers were locked out from providing full cover for any medical expenses that Medicare was to cover. These laws state that where there is a contract of insurance, the insurer isn’t liable to make a payment for anything that is rendered by these Acts. The onus is thus on Medicare to cover the client.

Sound all well and good, but how does this work in practise? ……if you are a volunteer and you jam your hand in a door….you may well be liable for some expenses. The doctor will charge a fee, say $100, of which Medicare will only rebate 75%, and you will be out of pocket for the remaining $25-unless you go to a hospital or clinic that bulk bills.

This gap in the market and the Medicare coverage affects anyone who engages volunteers, including not for profit, charity and community organisations. …..There’s no need to be alarmist about the gap in insurance coverage for volunteers, but equally in the spirit of transparency, it’s an issue that volunteers do need to be aware of. No one wants a volunteer to incur a financial cost from their time volunteering, or have unrealistic expectations that the organisation should pay for any gaps in medical expenses.

The best path forward is one of knowledge, and forewarned is forearmed…”.