

Tourist Guides of the 21st Century

INSURANCE 101



THE PRINCIPLE OF RISK

“Risk is universal, present in all things, all lives, inherent in being. The concept of a person free from risk is as theoretical as the concept of perfection” (Jawaharlal Nehru - 1889-1964).

Given that risk is inherent in being, the question is not so much about how to avoid risk as it is about how to minimise the consequences of risk occurrence, from both a financial and reputation point of view.

Consider these three basic theoretical principles:

- Whenever an event results in the loss of tourist lives (especially international tourists), the global media are almost certain to report it, forcing the local tourism industry to be embroiled in acts of crisis management.
- Perceptions about a particular tourism related crisis tend to be almost as devastating as the crisis itself.
- The farther away one is from a crisis location, the worse the crisis will appear to be and the longer the crisis will remain in the collective travel subconscious.



THE PRINCIPLE OF LIABILITY

The concept of a legal duty is a device that law courts in South Africa use to determine whether or not it is reasonable to impose liability. A tour operator has a duty to conform to reasonable standards of care. The test of ascertaining the existence of a duty of care in any particular case is the 'foresight of a reasonable person'. This means that one owes a duty of care to persons to whom harm may be reasonably foreseeable.

In this regard the following questions must be asked:

- Would a reasonable person, in the position of the defendant, have foreseen the possibility of his or her conduct injuring another; and
- Would a reasonable person have taken steps to guard against this danger?
- If so, did the defendant take the steps in question? If not, the defendant would probably be considered negligent. In the tourism industry, most claims that give rise to liability are personal injury claims. It is also possible for a liability to arise under circumstances where no first aid is available or no proper evacuation plan is in existence.



NB: Guides can be held liable for not having taken appropriate steps to assist a tourist in distress i.e. not rendering first aid whilst being qualified to do so.



THE SIZE OF PERSONAL INJURY CLAIMS

A personal injury claim can range from between ZAR5 000 for a minor whiplash injury to several million for one that results in a victim becoming a quadriplegic. Bearing in mind that the tourism industry attracts high net worth individuals, personal injury claims have the potential to be substantial. It is not uncommon for an injury claim to far exceed the operator's insurance cover limits, which can ultimately lead to the relevant employee of the tour operator being declared insolvent and his or her employer (the tour operator company) being liquidated.

Case Study: While on a game drive at a private nature reserve in Namibia, the driver lost control of the vehicle, which subsequently rolled. One passenger sustained life-changing injuries while two of the other passengers were seriously injured. These three guests sued the driver and the safari lodge as the owner of the vehicle. The guest with life-changing injuries was awarded a settlement of NAD80 million and the two other guests were awarded NAD2.9 million and ZAR3.5 million respectively. Legal fees incurred in defending the case amounted to NAD10 million, with a combined claim value of NAD96.4 million.



NB: When hiring your services to a tour operator or DMC make sure that their public liability policy extends to cover subcontractors and that you have a contract or letter of appointment in place.



GROUP SCHEME

The following slides relate to a group insurance scheme proposal prepared by SATIB Insurance Brokers for the Federation of South African Tourist Guide Associations in June 2010



FSATGA

Federation of South African
Tourist Guide Associations



RISK EXPOSURES

- Many guides have no insurance or medical aid cover at all
- Governments proposed national medical plan will favour the poor i.e. income based contributions not relevant to cover / service levels
- Public emergency contact centers poorly trained & inefficient
- Government hospitals in some areas below standard with poor ambulance infrastructure & resources
- Private ER companies biased towards own products / services
- Private medical / ER services require payment guarantees

RISK EXPOSURES

- Passenger Liability covers fare-paying passengers but excludes guide / driver
- RAF Amendment Act removed right to sue wrong doer for injuries
- Can only claim from RAF
- Claim limited to R160,000
- Application process after the event – long time lapse between date of claim & payout
- Settlement often less than claim



RISK SOLUTION

INCIDENT MANAGEMENT:

- 24/7 Emergency Response / Crisis Call facility
- One number – team of crisis facilitators, medical doctors & paramedics
- Understand tourism / hospitality / guiding & handling of remote wilderness area crisis
- Unbiased in terms of ER service provider

COVER:

- R100,000** cover for **incident management** costs
- R75,000** cover for **emergency evacuation / paramedic** costs
- R35,000** cover for **alternate accommodation / catering / travel** costs
- R5,000** cover for **communication** costs



RISK SOLUTION

PERSONAL ACCIDENT:

- To counter risk of RAF limits & exclusions
- To provide for in hospital medical expenses (surgery / life support)
- To provide for funeral / family support
- To cover loss of income due to injury

COVER:

- R100,000** cover for **death / disablement**
- R100,000** cover for in **hospital medical expenses** (R1,000 excess)
- R20,000** cover for **funeral expenses** (deducted off death benefit)
- R750** per day cover for **loss of income** (up to 30 days – 2 day excess)



PREMIUM CONTRIBUTION

- R625 per member, per annum (12 month period)
- Equates to just R52 per month
- Provides **basic cover** for nominated FSATGA member guides at **affordable level**
- Members **can increase cover limits** on an individual basis
- Premium based on **2000** participating members (minimum 1500 members to incept)



GROUP SCHEME

- **FSATGA** is the insured & policy covers the participating association members
- Premium payment 80% (of 2000 = 1500) on inception & balance on declaration basis
- As participation numbers grow premium or benefit limits can be readjusted and reconciled at renewal
- Members must be declared (guide No's, names, contact numbers, ID No's and medical aid provide / number (if applicable) is required – also next of kin



Q&A

Q: Will the cover respond if the guide is injured or dies in an accident but was not on tour at the time of the incident i.e. on a personal trip?

A: Yes. As long as the circumstances of the injury / death complies with the policy wording (excl professional activities of higher risk – tree felling, etc).

Q: Will the policy pay out if the guide also has other PA cover or medical aid in place?

A: Yes. The PA policy is not affected by any other cover that the guide may have in place.

Q: What about accidents that occur outside of SA's borders – will they be covered?

A: Yes & No. The PA policy has worldwide territorial limits but the SATIB24 Med Evac is restricted to South Africa only. Members can extend Evac cover for Africa on application at an additional premium.



Q&A

Q: Can we add Public Liability to the group scheme?

A: Yes, on individual application. Bear in mind that we are trying to keep the premium to a level that will be affordable to all guides.

Q: Will the policy respond if the guide is leading an adventure activity? I.e. helicopter-tours, underground mine tours, white water rafting, etc.

A: Yes, subject to the PA policy operative clause exclusions (suicide, piloting aircraft, war, riot, police / military service, professional sport, AIDS / HIV, venereal diseases, etc.)



Q&A

Q: Is there a limit to how much cover individual guides can buy up to (over & above the group scheme limits)?

A: PA sum insured limits can be increased up to R1 million without referring to underwriter. Higher limits can be obtained on referral.

Q: Is the incident management limited to road accidents only or will it also respond to other events like hijack, rape, etc?

A: SATIB24 will respond to any incident where the guides life is in danger and will access the situation and activate appropriate ER response accordingly.

Q: Who is the insurer?

A: The PA policy is underwritten by Lloyd's while the SATIB24 policy is underwritten by a Guard Risk cell captive.



Q&A

