



U3A NETWORK NSW INC.

Memorandum

From: Carmen Champion/Governance Officer

To: All U3A Presidents

Subject: HOMEOWNER'S LIABILITY

Date: 18/09/2019

HOME-BASED U3A COURSES/HOMEOWNER'S LIABILITY

A. ISSUES

Some U3As allow their courses to be conducted at the home of one of their members. That raises 3 issues:

1. The duty of the management committee to ensure that the premises are safe;
2. The duty of the homeowner, and
3. The cover provided by AON & AON's right of subrogation.

B. DUTY OF THE MANAGEMENT COMMITTEE

The duty of the management committee is to provide a reasonable safe environment for the members who participate in their U3As courses. What that requires is determined by reference to the nature of the U3A cohort. Accordingly, the care taken must reflect the fact that many U3A members are of a significant age and may suffer physical disabilities.

That duty of care does not only apply to premises owned, leased or used under licence by the U3A association but also private homes.

That duty requires the management committee to inspect the private property proposed to be used for the purpose of a U3A course. Such inspection should be the subject of a written report by the member of the committee who conducts the inspection and should identify any likely issues

that could cause injury or loss. Such issues may include broken steps, steep access that may prove slippery in wet weather, overhanging tree branches etc..

The private property should not be approved until the potential risk/s are removed or satisfactorily ameliorated. It is also advisable to require the homeowner to have insurance covering potential injury to a U3A member who comes onto their property. These days most household insurance provides such cover. You will need to check!

It is also advisable to alert the U3A members likely to attend the private home U3A course of any danger that may not be immediately apparent.

Failure to act upon that duty may be perceived not only as a breach of duty but also as an act of negligence (a failure to take reasonable care to avoid causing injury or loss to another person) for which your U3A may be liable. In some cases, it may also attract personal liability for each committee member for failure to perform their duty of care.

C. LIABILITY OF HOMEOWNER

A homeowner has a duty of care to visitors to their property. Again, the nature of that duty is determined by the nature of the visitor. As already mentioned, many U3A members are of advanced age and/or may suffer from one or more physical disabilities.

The homeowner must consider what, if any risks, exists on their property which may cause injury to U3A members who may be less mobile than normal or are vision impaired. Broken steps, slippery tiles and other types of impediments need be fixed.

Failure to satisfactorily address such issues may well result in the homeowner's liability for any loss/injury suffered by a U3A member. The homeowner must be alerted to that fact!

D. INSURER

AON has provided the advice set out below which is consistent with the above.

What needs to be remembered is that AON will want to exercise its right of subrogation against the homeowner for his/her negligence and in that manner recover the sum it has had to pay out under the U3A policy.

AON's ADVICE

"Q11. Does the U3A PL policy cover meetings in private homes?"

A11. If the "meeting" is a U3A authorized activity, event or course, then any damage to property or personal injury caused by a U3A member (including financial U3A members, non-financial U3A members and invited visitors whilst they are involved in the authorized U3A activity).

However, if an incident which results in damage to property or personal injury is caused by the condition of the private home (e.g. a slippery floor or a broken floor step), then the responsibility for the incident rests with the homeowner (even if the homeowner is a U3A member). In this case,

a legal liability claim for loss or damage may be made against the homeowner. Most homeowners have cover for such third-party legal liabilities under their home building and/or home contents insurance policy.

It is prudent that before any U3A authorized activity is held in a private home, there be a written declaration signed by the homeowner, acknowledging that he/she holds current home building and/or home contents insurance which includes cover for third party legal liabilities including damage to property and personal injury.

Carmen Champion/ Governance Officer

18/09/2019