

Abuse Liability: Protecting Organizations from Costly Allegations

All allegations need to be defended, regardless of whether or not they are true. Abuse Liability insurance is designed to cover an organization's defence costs against third party allegations of abuse or wrong doings.

This type of policy does not typically cover the alleged accused individual as abuse is classified as an illegal act and, therefore, excluded. However, some insurance companies will have a small extension included which would provide some legal support to the alleged abuser after the fact if they are acquitted of all charges or the charges are withdrawn by authorities.

LONG-TAIL EXPOSURE

Abuse claims tend to have long tail exposures as there is

no statute of limitations on abuse allegations or sexual assault cases. Many times, the victim does not come forward or even realize the impact the abuse or assault has had on them until years after it has occurred. In addition, damages are hard to quantify, especially the extent of the hurt or damage done to a person's mental health. There are claims from the 1970s and 80s that are just coming to light now, and the full impact is not yet known for those individuals. Defence costs in situations like these could become extremely costly for organizations or businesses, particularly given the challenges that come with investigating incidents from that long ago as records and evidence may be impossible to obtain.

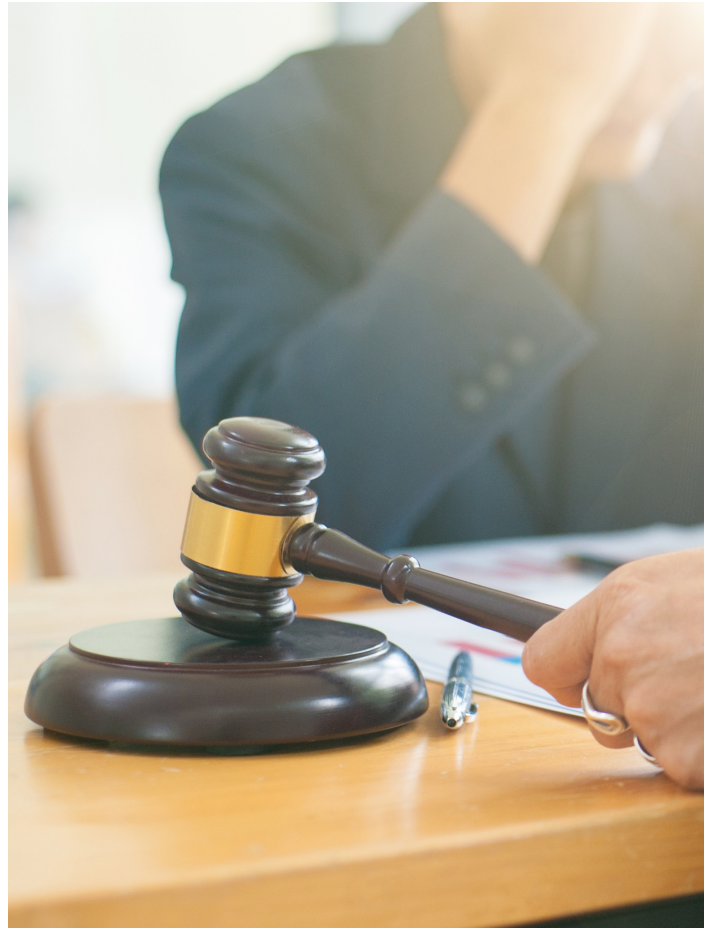
HIGH-RISK EXPOSURE

For those clients with high-risk operations such as working with minors and/or vulnerable populations, insurers will generally include a specific abuse exclusion to clarify the intent of the coverage. In these cases, Abuse coverage needs to be specifically added either through an extension to the existing policy or through a standalone Abuse policy. Standalone coverage is harder to obtain as it usually follows with the Commercial General Liability carrier, even if on a separate policy. To apply, an organization or business will need to have strict written policies and procedures in place, extensive training and reviews done with staff and proper vetting of those involved with vulnerable people. If you have volunteers, they will also need to be vetted and trained just as if they were staff. The vetting process must include, but is not limited to having police or background checks done, vulnerable sector checks done and references checked.

Due to the nature of these types of claims, the litigation process can be very lengthy, and can create challenges for organizations if they are not properly protected by their insurance portfolio as they would be responsible for their own legal fees. Under Abuse Liability coverage it is important to know that allegations are what triggers the policy to respond, regardless of the truth of the allegations. Insurers are diligent when underwriting Abuse Liability and will ensure their clients mitigate and reduce risk as much as possible.

CONCLUSION

As we move towards a more litigious society we are seeing a rise in abuse allegations. As they are difficult to both quantify and defend, insurers are reserving with caution to ensure adequate coverage. There has been a societal shift to recognize the vulnerability of victims in these cases, and defendants are held to an extremely high duty of care. Now more than ever, it is important that organizations or businesses working with vulnerable people not only have proper policies and procedures in place, but also ensure they are protected through a Abuse Liability policy.



If you have questions specific to your business, or would like additional information, please reach out to your Lloyd Sadd Advisor.

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