



## DIOCESE OF CHELMSFORD

### INSURANCE COVER FOR WORKS IN CHURCHES AND CHURCHYARDS

1. Claims for damages for injury and death have now reached, and sometimes exceed, £10,000,000. They are caused by negligence or breach of statutory duty. Nobody intends to cause injury. But people make mistakes. Either they do not see those mistakes, or they see them but fail to correct them.

2. Three real examples show the range of mistakes which constitute negligence or breach of statutory duty.

2.1 The un-caged vertical ladder. A churchwarden ascended the ladder while alone on a Monday. His dead body was found at the bottom of the ladder on the following Sunday. The ladder should have been "caged" (hoops around it) so that a person missing his footing is held by the cage – just enough to get his footing again.

2.2 The faulty electrical fitting. The new fitter comes to replace a light bulb. It still doesn't work. So he reaches in to an area he knows is earthed. But it is not earthed. He is thrown backwards to the ground sustaining lasting brain injuries.

2.3 The rotary lawn mower or strimmer which hits a stone. It is thrown up and penetrates the eye of a child nearby. The stone came from the nearby grave on which it had been put as part of the installation.

3. Claims are assessed on the evidence provided under several different heads of damage. These include

- (i) pain, suffering and disability;
- (ii) loss of earnings;
- (iii) future loss of earnings;
- (iv) care;
- (v) pension loss;
- (vi) housing costs;
- (vii) transport costs.

The largest heads of damage are (iii) future loss of earnings; and (iv) care.

4. Both of these are calculated by reference to their annual cost multiplied by a "multiplier". The "multiplier" is mathematically calculated (rather as a pension may be calculated) to use the capital and the interest annually so that the sum is exhausted notionally at the claimant's death.

5. The multiplier was, until recently, assessed by reference to a "discount rate" of "plus 2.5%". By government direction that "plus 2.5%" has been changed to "minus 0.75%". This has dramatically increased multipliers. So awards of damages are increased, equally dramatically. (Consideration is now being given to changing the "minus 0.75%" so that multipliers are not so greatly increased.)

6. Claims in excess of £10,000,000 are rare. But they are now a good deal more frequent. A high-earning wedding guest might slip over. It was on accidentally spilled water. He is brain damaged in the fall. All this is not unpredictable. But the claim would be very substantial. This example illustrates the point that damages are nothing to do with the magnitude of the negligence. A very modest piece of negligence can result in enormous damages. And much appalling negligence causes no injury to anyone.

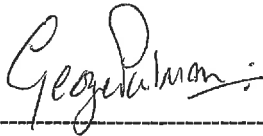
7. A contractor without £10,000,000 Public Liability risks cover and also £10,000,000 Employer's Liability risks cover is under-insured. He should not therefore be employed. The extra cost of the insurance cover is modest: there are few very large claims.

8. But if there is inadequate insurance cover, so that the claim exceeds the limit, the injured person's solicitor will search for someone else to sue. The PCC is by statute a "body corporate" (like a company). So the PCC can be sued. In the churchwarden's case (see paragraph 2.1 – uncaged ladder) it is only the PCC who could be sued. But the PCC is liable only as far as its bank balance goes.

9. Individual members of the PCC can, in limited circumstances, be personally liable. In particular if they were in breach of their duties as charity trustees each could be personally liable. It is at least arguable that a PCC which does not have adequate insurance cover is in breach of its duties so that individual members could be liable. So PCCs must ensure that the treasurer and/or Diocese have got adequate insurance cover (i.e. £10,000,000) for the risks which their church presents. If the Diocese arranges a parish insurance, the treasurer would be prudent to obtain a certificate annually to ensure this cover.

10. Some years ago a schoolgirl was injured in a classroom accident which blinded her. The school's insurance cover was inadequate for the damages awarded. The school had to close. Its premises were sold. So the damages were paid.

11. This is why parishes must require adequate insurance cover by its contractors working on churches and in churchyards. Bankrupting the contractor's company will not get the money.



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The Worshipful George Pulman QC  
Chancellor



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Date