

BEING INSURED, WHAT DOES IT MEAN TO YOU?

The insurance provided as part of the BMFA membership package is something that is regularly misunderstood despite the fact that it has been covered in fair detail and with reasonable regularity over the last few years in this very publication (and a few others besides).

So how does the insurance protect you as a fully paid up and fully insured BMFA member? What happens in the event of a claim being made? Who is responsible for the safety of any flight made? Will the insurance pay out in any circumstances? Will it help if you say it wasn't your fault? Will time start to run backwards if you fill in the reporting form incorrectly?

Well, put the kettle on, pull up a comfy chair, break out the biscuits and read on. Here are some of the questions that regularly crop up whenever the subject of insurance is aired for discussion.

Is the policy “comprehensive cover”?

No, at present it is not possible to purchase fully comprehensive cover for this type of activity, there is no such thing as a fully comp or automatic payout policy.

What should I do if I am involved in an incident?

The first thing you should do is exchange details with the third party. You can give them your name and address and your BMFA number, tell them that they will have to make an official statement of claim against you in writing for the damage (or injury). If it is damage to a vehicle, suggest that they report the matter to their own motor vehicle insurers (this is particularly important if the damage needs to be made good quickly, for example to maintain use of the vehicle). The next thing you should do is contact the BMFA head office in Leicester and request an insurance incident report form. Once you have received this it must be completed honestly and accurately (it is a legal document). If you are struggling with completing the form contact us, we are here to help.

In simple terms, what exactly does the policy that we get cover?

The best way to think of the policy is that it is in place to protect YOU in circumstances where you are involved in an incident with your model aircraft and a third party makes a claim against you. It is this statement of claim that triggers the insurance into action on your behalf.

What is the level of cover that we get?

The cover provided is up to a level of £10 million on any one claim. Whilst this may sound a large sum there have already been some very substantial settlements made in the UK in relation to sporting activities (not model flying) one at over £6 million and one reserved at approx £9million (arising at a social event). In addition to these significant pay outs, an injury claim was recently settled at over £14 million in Guernsey. Looking to the future it is likely that we will be seeking higher levels of cover for our members.

Why shouldn't I admit liability to the third party?

As with any liability insurance it could possibly compromise yours' and the insurers' position if you admit liability to the third party. As hard as it seems never ever say to the third party "sorry it was my fault" this is exactly the same for your motor vehicle insurance, it is not up to you to admit that you were negligent, it is up to the third party to prove it. There are occasions where you may not be negligent or where contributory negligence may apply.

So, how do the insurers decide whether the third party will receive a payout?

Following an incident where a statement of claim is made, there is always an investigation. No insurance company will make a payment to a third party unless there is a good reason and the onus is always on the third party to prove that the insured member was negligent or responsible.

Surely if I hit a club mate's car there will be an automatic payout for the damage? After all, he is a BMFA member like me and it does say in the Handbook that member to member cover is included!

No, the process is exactly the same, the member who has suffered the damage or loss becomes the third party and they (or their motor vehicle insurers) still have to prove that you were in some way negligent, or were responsible for their loss before the insurance company will pay out.

So, what does the "member to member" extension referred to in the Handbook actually mean?

Most liability cover will not permit one member of an association or club to make a claim against another member of the same association or club involved in the same activity. However, as there is the clear potential for injury or damage between members we have managed to negotiate a "member to member" extension to the policy but the process is still exactly the same as for an external third party.

I've heard of an incident at a club where a member's car was damaged with a model aircraft and the damage didn't get paid for by the insurance. Surely this means that the BMFA policy is a waste of time and money?

It is always difficult to comment on this type of incident as every one is different, and every one is investigated on an individual basis by the insurers. In the example given, the most likely reason that the damage to the vehicle was not made good is that no liability was attached to the insured member, and the third party could not prove that the insured member (the pilot) was negligent.

Surely, if the model hit the car causing damage then it has to be the pilot's fault? After all he was flying the aircraft!

In the majority of cases this is proven to be exactly the case and it is also helped by the legal position. In law the pilot is solely responsible for any flight that he undertakes. However, there will always be occasions when it is deemed that the pilot had done everything in his power to ensure the safety of the flight even though it has still resulted in an incident. In these cases, the insurers will "defend" the pilot's position and maintain the stance of no liability.

But surely somebody is always responsible?

There are occasionally cases where it is impossible to establish where the liability or responsibility for an incident rests; a good example of this would be non identified interference on 35MHz.

It doesn't seem fair that the insurers or the BMFA have dreamt up a scheme where somebody ends up with a damaged vehicle from a model aeroplane and doesn't get compensated for it, it ought to be against the law!!

The way in which the scheme operates isn't dreamt up by anyone, it is intimately tied in with the legal system that operates in the UK. Ultimately, a dissatisfied third party can take a claim to the civil court. The civil court will consider the evidence presented to them and also the case put forward by each party and they will arrive at a decision that is legally binding. If they decide that the pilot was liable then they will instruct the insurance company to pay out to the third party. However, if they find that the pilot was not liable then there is no case to answer and there will be no pay out to the third party (the third party could also be responsible for any court costs incurred).

So if I was involved in an incident and the insurers didn't pay out to the third party that means that I'm not insured and would have to pay out of my own pocket!

Absolutely and completely not; remember the policy operates on "legal liability". If you are not proven negligent or liable then there is no case to answer. Whilst this can seem harsh or unfair for the third party, the insurance has done exactly what it is supposed to and protected YOU, the insured member.

Are there any circumstances where as an insured BMFA member I would have to put my hand in my pocket following an incident with my model?

This is extremely unlikely, it's why you buy insurance, whichever way a claim against you goes, whether you are proven liable or not, and whether there is a payment made to a third party or not you are only ever required to pay the £50.00 policy excess (if you are found not liable you get your £50.00 cheque back and there is no excess on injury claims). However, it should always be borne in mind that all insurance policies have terms and conditions and exclusions which must be adhered to for the above statement to be correct. Also in the extremely unlikely event of a successful claim exceeding the £10 million then the negligent member could be liable for the remainder.

Is it the law to be insured to fly a model aircraft?

No, for models weighing less than 20kg it is not a legal requirement, however you would be very unwise to fly a model aircraft of any size without appropriate insurance (historically, two of the largest claims against BMFA insurance were as a result of accidents with small "chuck gliders"). For models weighing over 20kg (classed as small aircraft) it is a legal requirement to carry appropriate insurance cover.

What would happen if I had an accident and I wasn't a BMFA member or wasn't insured through a similar scheme?

This happened a number of years ago when an individual flying a model aircraft without any insurance cover in place was involved in an incident resulting in severe injuries to a third party. A successful and significant claim was made against the pilot and as he had no insurance he was personally liable for the damages awarded by the judge. He lost his house, his savings and his assets and will in all likelihood be paying

for the incident for the rest of his life..... this is what you are protecting yourself against when you buy insurance for flying model aircraft.

Are there any penalties if a claim is made against me?

No, there are no “no claims bonuses” to lose and you will not be dragged across hot coals or beds of broken glass. However, it is not unreasonable that questions would be asked by the insurers (and of course me) if you were the subject of a claim every other week. As model pilots, we are all bound by the provisions of the Air Navigation Order and have a basic duty not to endanger any person or property with our aircraft and we must always have this aim in mind when we go out to fly. The huge majority of BMFA members will never be on the receiving end of a claim and will never have cause to report an incident to the insurers.

Do I need an A or a B certificate to be insured?

No, this is clearly a rumour propagated by those same individuals who publicly denounce the existence of Father Christmas or the Tooth Fairy! BMFA membership is open to all and there are no conditions other than you are acting “lawfully”.

Is the insurance only valid if I fly at an “authorised” BMFA flying site?

The insurance is valid anywhere in the UK and additionally anywhere in the world for temporary visits. There is no such thing as a BMFA authorised or approved flying site; again this is a rumour expounded by the aforementioned individuals. It comes back to acting lawfully, not endangering and making a considered judgement as the pilot in charge that your chosen location is suitable and safe for the type of model you intend to fly.

Is the insurance only valid if we are following the BMFA Members Handbook to the letter?

The Members Handbook is essentially guidance and good practice based on over 80 years of model flying and related topics experience; it is not a book of “rules”. Members and clubs are not required to follow it to the letter however, where a decision is taken to stray significantly from the advice given there should be a clear (and documented) line reasoning behind this, remember it is not beyond the realms of possibility that you could find yourself in court following an incident explaining why you were not following guidance that was readily available and that you had been provided with.

Am I insured if I am found to be breaking the law?

It is not possible to be insured whilst committing a criminal act. The insurance provided as part of the BMFA membership package stipulates that it is for “lawful recognised pursuit”. However, if there were to be a civil action running alongside a criminal prosecution then the insurance would still respond on the civil liability claim.

I have heard that we get two insurances as part of the membership, is this true?

You certainly do, all of the above relates to “third party and civil liabilities” cover which is really the important one as it is what protects YOU when a claim is made against you. BMFA members also benefit from “personal accident” cover as part of the package. The easiest way to think of this cover is that it covers you when you have done something to yourself (as you can probably imagine I see more claims for fingers in propellers than anything else). The PA cover will be the subject of a future article.

Are there any age limits on the insurance?

The third party and civil liability portion of the insurance has no age limitations at all. The personal accident cover is for ages 3 to 85, in general terms it is almost impossible to purchase this type of insurance for persons over the age of 65. However, due to the fact that our insurers recognise that BMFA membership consist of a significant number of members over the age of 65, we have managed to negotiate an increased upper age limit (Benefits vary dependant on your age category).

What would you say are the main points members need to be aware of and always bear in mind in relation to the insurance provided as part of the BMFA membership package?

This is potentially a biggie; everything covered above is important, however perhaps the easiest way is to number the main points that members should be aware of in relation to the insurance portion of their membership.

- 1) The insurance is in place to protect YOU, the insured member in circumstances where you have been involved in an incident and a claim is made against you.
- 2) Any pay out to a third party is NOT automatic; it will always rely on liability being established on the part of the insured.
- 3) If you ever find yourself needing to complete an insurance incident report form, fill it in accurately and honestly, this makes the process that follows much easier for all concerned.
- 4) When you take your car to the flying field you bear some of the responsibility for it being there. It may get damaged and if no liability can be proven on the part of the pilot then the insurance may not pay out on the claim. If this occurs you would have to claim on your own motor vehicle policy or pay for the damage yourself.
- 5) There is a “member to member” extension permitting one member to claim against another but for a successful claim to be made liability must be attached to the insured member (pilot).
- 6) Provided you have not breached the terms and conditions of the policy and you have acted lawfully, then YOU, as the insured member should never be liable for more than the £50.00 excess on the policy; this is perhaps the most important point.

I hear that 2010 was one of the worst years for numbers of insurance claims, so what is the likely long term impact of this?

It is difficult to give a precise answer on this one; however it is very clear that large numbers of claims even though individually they are of fairly low value, do have an impact on the premiums that we pay. The regular damage to vehicle claims are a constant source of frustration both for ourselves and also for the insurers. Ultimately these may have an impact on our ability to purchase insurance at a cost effective premium. The huge frustration for me is that all or pretty much all of these incidents are avoidable and a little more care and thought on the part of the pilot could almost eradicate this type of claim. Also the Insurers review the terms annually and therefore if the number of claims/payments under the scheme increases this may have an effect on the level of cover available or the premium required going forward.

How can I find out more about the insurance, perhaps more detail on particular areas?

Ahh, this one's easy, you can always ring the office for a natter and more details or better still invite me over to talk to your club members on a club night, I do a talk lasting about an hour and half and take questions as I go along. It's not just about insurance but also covers everything to do with the BMFA, and the benefits of being a member as well as exactly what members get for their £29.00 annual subscription fee, as a bonus there is no cost to the club (other than buying me the odd orange juice of course).

I've finished the biscuits and my tea has gone cold! Any advice you can give there?

Yes, clearly you should do one of two things in these circumstances, either retire to the workshop and work on your latest creation whilst awaiting further supplies of hot tea and biscuits, or load the car with numerous airframes and plenty of associated equipment and take yourself off flying for the day, safe in the knowledge that if you are, despite your very best endeavours unfortunate enough to be involved in an incident and a claim is made against YOU the insurance will be triggered into action on your behalf.

Manny Williamson
Development Officer
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