

### **Third Party Liability Insurance**

**The subject of the ROA member third party liability insurance came up for discussion at a recent Ownership Matters event.**

**Justin Wadham, ROA board member and solicitor, explains the importance of this benefit of membership.**

Anyone who owns or has care of a horse has a potentially ruinous exposure to third party liability; and, because of the 1971 Animals Act, that liability will not depend upon that owner being at fault in anyway. Nor will it depend upon whether he/she had any control over the situation.

The good news is that, at low cost (and at negligible/invisible cost if you are an ROA member) you can insure against this exposure. As, however, little is ever simple in life, it is worth examining potential gaps in the protection people can acquire.

Even if you live outside the UK and have a small stake in a horse, you could find yourself liable for up to 100% of any damage it causes. Together with your other co-owners (and the trainer) you might find yourself jointly and severally liable. This means that you are potentially liable not just for your pro-rata share of any damage your horse inflicts but, depending upon how able your co-owners are to meet their share of it, you might have to pick up the tab for them too. Once again, and subject to the £10 million ceiling on your liability, ROA members will be protected to the full extent of this exposure. That insurance cover will not only cover them for their pro-rata share of the liability (calculated by reference to their contract with the other co-owners) but their full financial exposure.

Making the assumption that, because you have no day to day control over your horse, you cannot be responsible for its misdemeanours is plainly to live in a fool's paradise. If, for instance, you are someone who boards horses at a third party facility – and have taken the precaution of ensuring that that facility has third party liability insurance - it might automatically be thought that you can therefore sleep easy. The facility's third party liability insurers, however, might protect the owners of the facility without extending this protection to the clients of that facility. This means that, if a claim is made against the owners of the facility in relation to damage caused by your horse, and their insurers pay their client out, those very insurers might then try to recover from you the full amount of the claim they have just met. This will not be a danger if the relevant insurance policy is with reputable bloodstock insurers. Nor, again, will it be a worry if you are an ROA member. Nonetheless, there are insurers who, when insuring the custodian of a horse will only insure that custodian and will refuse to agree that the insurance should extend to protect the underlying owner; and they will refuse to give this extended cover for the precise reason that they want a third party to go against should they have to pay out a claim to their insured.

We all probably know (and certainly assume) that racehorse trainers are obliged to insure against third party and public liability risks. They are. However, they only have to have £2 million worth of insurance (any one claim) and, in this day and age, this could be far too low a level of indemnity. Furthermore, despite the Rule of Racing which requires them to insure, it is unlikely that the question of whether they actually take out the insurance is policed either effectively or at all. In any event, the same problem could arise with the trainer as might arise with any third party facility where an owner keeps his/her horses. In other words, the trainer's insurers having paid out their trainer client, look for an owner from whom to claw back what they have just paid out to their trainer client. Thus, the mere Rule requiring trainers to have third party liability, is scant protection. It is not policed. It does not require high enough cover and of course it does not make any stipulations about the terms of cover which would ensure that it protects the underlying owner.

Full details of the ROA third party liability insurance scheme for members can be found at [roa.co.uk](http://roa.co.uk)