

Directors & Officers Liability - Information

What is D&O Liability - What is Covered?

Directors and Officers Liability Insurance will cover any civil or criminal offences including defence costs and awards. In addition, not only is cover available for all Directors and Officers of the company but it also extends to include managers and other key employees.

It has become apparent over recent years that society is developing into an increasingly litigious culture. There is now more emphasis on companies to provide a better working environment and they must demonstrate a duty of care at all times. The duty of care comes in many formats, from the financial management of a company to ensuring a safe working environment for all employees. Without Directors & Officers Liability Insurance your homes and personal possessions are at risk.

Directors & Officers Liability Insurance is designed to cover Private Companies domiciled in the UK, Non-profit organisations in the UK and Resident's management Companies. D&O is a policy which is paid for by the company and protects its directors and senior officers (who have a statutory, legal obligation of care & diligence), against claims arising out of a wrongful act such as an alleged, or actual breach of duty, breach of trust, error, omission, misstatement, misleading or defamatory statement including any violation of The Companies Act.

Directors at Risk - Counting the Cost

In the past Directors' & Officers' Liability Insurance (D&O) has been seen as expensive and perhaps not as core to a business's operations as property and liability insurance. However, with directors increasingly in the spot light, this perception is rapidly changing. The appetite to pursue claims against directors continues to grow and the risk exposure has increased as new laws have been introduced. Research with one leading insurer reveals that D&O claims have doubled since 2009.

If you haven't previously considered this additional cover then don't wait until the renewal date of your other insurance policies or until a claim occurs. This cover is available immediately and requires no paperwork before cover can be arranged. The premium may even be able to be added to your existing direct debit or credit agreement.

Directors & Officers Liability - Claims Examples

Shareholders / Company

- A shareholder in a building contractor brought an action against a director because he was concerned by the way the company was being run. The claim alleged negligence and maladministration of the company's affairs that led to a loss in the value of the shareholding.
- In a take-over, the Chairman of the company being purchased wrote to the shareholders advising them not to accept an offer, as it was inadequate. The offer eventually accepted was lower than the offer that had been turned down and the investors sued the Chairman for bad advice.
- An advertising agency was successful in bringing a claim against its former managing director for diverting parts of the business and its opportunities to his new company. The court held that the managing director had misused the property of the agency, therefore breaching his fiduciary duty, that he was personally accountable to the company and that he should provide equitable compensation.

Insolvency

- Two directors of a construction company which went into liquidation were held personally liable to the creditors for £417,000 which had been paid to another director. They were found guilty of a breach of fiduciary duty and wrongful trading.
- A director signed a company cheque but omitted the word 'Limited'. The cheque was not honoured and by the time the corrected cheque was re-presented, the company had gone into liquidation. As a consequence, the director was held personally liable for the value of the cheque for £30,000.
- A boat builder went into liquidation with losses of £1.5 million. The directors had believed that the company was making a profit but the liquidators sued the directors for negligence after discovering no accurate financial records were being kept.

Competitors

- A competitor sued a director of a company for defamation after making disparaging remarks about the business practices of the competitor at a conference as they were repeated in the local press.

Customers

- A director took an order at a trade fair but could not recall the details the next day and was subsequently sued by the customer for breach of contract.
- A customer sued a marketing director after promotional material, which the director had approved, gave incorrect prices for the product range.

Directors & Officers Liability - Claims Examples - Continued

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Employment

- A former director of a company sued the current directors, alleging that they had conspired to deny him his correct pension benefits
- After receiving repeated warnings for lateness and poor attendance a female employee sued a director and personnel manager of her employer for sexual harassment.
- A former employee of a company sued one of its directors claiming that the non-competitive agreement within their contract was excessive and unfair.

Regulatory - Environment Agency

- Two company directors were convicted of illegally dumping 12,900 tyres on a site in Devon. A fellow director was imprisoned for operating an unlicensed waste transfer station.

Regulatory - Tax/Customs & Excise

- Two directors of a demolition firm were prosecuted by the Inland Revenue for failing to keep proper tax records.
- The company secretary of a leisure group who owned a number of bars was prosecuted for short measures being served at one of the bars.

Regulatory - Companies Act

- Directors were held in breach of the Companies Act after their inadvertent failure to identify the company correctly on company notepaper and invoices.

Regulatory - Corporate Manslaughter / Health & Safety

- Following a fatal coach crash, two directors of the coach company were charged with manslaughter.
- A driver fell asleep whilst driving for the family-run haulage company for which he was employed. Two motorists were killed. The court held that the operations manager should have ensured that his driver adhered to the relevant driving regulations. He had also failed to keep in close touch on these matters with his co-director. Both directors incurred substantial defence costs before being convicted of corporate manslaughter.