

Directors & Officers Liability — Directors beware

Over recent years legislation has greatly increased the personal risks of being a director or even holding a position of responsibility within a company. A common myth is that a company's limited liability status will protect directors against being sued by any interested party should things go wrong.



Directors are personally liable to defend such claims and their personal assets could be at risk. The consequences of legal action can be devastating:

- Disqualification
- Criminal prosecution.
- Personal bankruptcy.
- Loss of job and reputation.
- Family trauma and financial hardship.

Directors can be sued by employees, shareholders, their own company, creditors, regulators, customers, competitors, government or anyone else who feels they have suffered a loss arising from the director acting wrongly in their position. Cases can be brought from a variety of sources:

- Mismanagement.
- Negligence.
- Unfair dismissal or discrimination.
- Libel and slander.
- Breach of duty.
- Anti-competitive behaviour.

Directors of private limited companies are vulnerable because of:

- A personal financial stake in the company, resulting in exposure to the potential costs incurred defending or settling any legal action.
- Lack of their own risk management teams such as in-house legal advisers or an HR department.
- Simple structures making it easier for regulators, investigators or third parties to apportion blame back to a decision taken by a director.



Directors & Officers Liability – the solution



Director and Officers insurance protects directors and senior staff from the risks they take. Cover includes:

- Legal costs, damages and settlements for wrongful acts.
- The costs of professional fees at official investigations
- Civil Fines and Penalties (where deemed insurable).
- Extended cover for retired directors
- Defence against spurious claims

Cover can also be extended to include actions made against the company itself and employment claims made by employees under various employment legislation.

A wrongful act is defined as a breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission, breach of warranty, trust or other act, whether actual or alleged in their capacity as directors, officers or employees of the insured company.

Claims Examples

- Two employees were killed whilst attempting to repair dangerous machinery. The company's managing director and several technical managers were prosecuted for breach of health and safety legislation. Defence costs were £890,000.
 - A manufacturer employed a waste disposal contractor to dispose of old oil. Contrary to the manufacturer's expectations, the contractor dumped the oil in a field and then became untraceable. The Environment Agency brought criminal proceedings against the manufacturers' directors and considerable defence costs were incurred to achieve their acquittal.
 - Following a fire which destroyed a company premises it was discovered the company were seriously under insured which resulted in a significant under payment. The director responsible for arranging the cover was sued by his fellow directors for the shortfall.
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Rawlins Insurance are a local company who specialise in providing Insurance and Risk Management to businesses. For a review of your Insurance Portfolio or for more information on Directors and Officers liability please contact Tim Green on 01782 753000.

"We help when things go wrong"

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