

Directors & Officers (D&O)

Who needs it and why?

The simple answer is everyone!

Common Misconceptions

- Isn't D&O cover only for those running publicly traded or very large businesses?
- I'm never going to be in a position where I could be sued by one of my employees or stakeholders.
- It's too expensive to consider on top of all of my company's other insurance costs.

Just some of the reasons D&O Insurance should be in your budget:

Protection in case of bankruptcy or insolvency

If faced with bankruptcy or insolvency, creditors may pursue legal action against directors if they feel that they have not acted in their best interests.

Directors' personal assets are at risk

If a director has been accused of breaching their duties, they are personally liable to defend the claim. Their personal assets are potentially at risk if they do not have adequate D&O cover.

Investigations by regulators are getting more and more common

Investigations and fines imposed by a regulator or body such as the Health & Safety Executive are one of the primary drivers of claims in the current UK business climate.

SMEs are just as vulnerable as large companies

SMEs are not exempt from D&O claims; they face exactly the same risks and regulations as their larger peers, but often do not benefit from in-house HR or legal teams.

D&O claims are NOT covered under any other liability policy

A common misconception is that alleged misconduct by directors or companies is covered under other liability policies such as Professional Indemnity.

Defending a legal action can be costly

Legal costs for defending allegations against the company or one of its directors can often run into tens of thousands of pounds.

Employment practice claims remain a large threat to directors

In an increasingly litigious society employment practice claims such as sexual harassment or wrongful dismissal can result in astounding settlements.

D&O insurance is more affordable than ever

A D&O policy can cost from under £500 per year, yet the total cost of a D&O claim can run into hundreds of thousands, if not millions of pounds.

Claims Examples

Directors & Officers Cover

Pollution

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 manufacturer's directors and considerable defence costs were incurred to achieve their acquittal.

Civil Fines and Penalties

Under the Finance Act 2009, the Senior Accountant Officers (SAO) of large companies have a duty to take reasonable steps to ensure that the company establishes and maintains appropriate tax accounting arrangements. A duty is placed on the SAO to provide HMRC with particular documents on an annual basis which meet certain requirements. The SAO of an insured company was fined £5,000 for not complying with their duty as he did not provide the annual certificate to the HMRC.

Corporate Liability Cover

Corporate Manslaughter (Defence costs)

Four teenagers drowned after a disastrous canoe trip. Criminal proceedings for corporate manslaughter were brought against the manager of the company that organised the trip and a separate action was brought against the company.

Employment Practice Liability Cover

Employment Practice Liability

A team of female employees brought an action against their employer over claims that they were being paid less than their equivalent male colleagues. Their action was successful and the court awarded them compensation of £10,000 each.

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