



Eight myths surrounding director's liability insurance

The IoD recommends that all directors are adequately insured against the considerable risks personally faced in director-level roles. Don't get caught out by believing some of the most common myths surrounding the liabilities you face

1 I have limited liability...

No you don't. Just because the company is limited it doesn't mean that your liability is. There is no limit on the liability you can incur for things such as negligence and legal defence costs can run into thousands of pounds. Proving your innocence can be expensive but who will meet those costs?

2 Insurance cover is expensive...

Not necessarily. A corporate policy, which would protect all directors and many senior employees on an umbrella basis, starts at £522 a year for £1m of defence and awards cover. Individual cover starts from as little as £32.23 per month.

3 The company will defend me...

Are you sure? Having an undertaking in the company's Articles of Association or a clause in your Director's Service Agreement (or both) is prudent but what if the company doesn't have the financial resources or the cash flow to fund your defence when the summons arrives? You could easily be left to face the bill yourself.

4 We're only a small company...

This makes no difference. Size bears no relation to the problems you can encounter. A small company is likely to struggle to meet the costs of your defence. Who will meet the costs if the company is unable to?

5 We don't need cover because we're a charity or trust...

Wrong. Organisation type has no relevance. Directors, officers and trustees of all forms carry onerous duties and can be sued or investigated due to the way in which an organisation is managed. Do you really want the charity or trust using its resources to mount a legal defence?

6 Our legal expenses insurance policy will cover us...

Only if insurers think they can win. Most legal expenses policies contain a 'prospects clause' so insurers will only respond if they feel they have an odds-on chance of winning. What if they don't?

7 I don't work for the company any more...

It doesn't matter. You were still responsible for the way the business was run when you were there. Actions can take several years to materialise so resigning is no defence. How likely is the company to utilise its own resources to defend you once you have left?

8 As a non-executive I can't be found liable...

Maybe. There have now been several cases that have ruled a non-executive was behaving as a de-facto director. If you are named in an action then it will need defending and who will bear the cost of that?



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Quantum

0800 015 1533

iod@quantumplc.com

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