

Management Liability Insurance fact sheet

June 2018



Management Liability Insurance in a nutshell

Management Liability provides cover for your company and its senior management for the decisions and responsibilities involved in operating a business.

The low-down

No business is immune to allegations of mismanagement, misconduct or legislative breaches. With increased regulation and the heightened responsibilities of directors, officers and senior managers, it is important to protect not only your company itself, but the personal liability held by your key management personnel.

As opposed to Professional Indemnity insurance which covers the 'activities' of your business, Management Liability insurance covers the 'running' of your business. It insures against claims that arise either internally or externally to the company whether it's from an employee, customer, competitor, member of the public, regulator or shareholder.

There are six key areas of cover:

- **Directors and Officers Liability** protects your directors and officers for claims alleging wrongful acts such as breach of fiduciary duty, misappropriation of trade secrets, unfair competition and breach of confidentiality.
- **Corporate Liability** protects your company against claims of alleged or actual wrongful acts.
- **Employment Practices Liability** covers the company for a breach of employment practices, such as wrongful dismissal, discrimination, bullying and harassment.
- **Statutory Liability** provides cover for fines, penalties and legal representation to defend against allegations of legislative breaches, for example, investigations and prosecution by WorkSafe.
- **Tax Audit** covers the costs associated with a tax audit by the ATO, such as accounting and other professional fees.
- **Crime Protection** covers the company for direct financial loss (crime) caused by employees and third parties.

Do I really need it?

Regardless of how much care you take, the reality is that claims relating to mismanagement and legislative breaches do and will continue to happen. You can't ignore them and they won't magically disappear.

Management Liability is a fundamental form of cover for privately owned companies operating in an increasingly litigious environment, especially where the cost of representation and legal fees continues to push up the value of claims.

With a host of benefits under the one policy, it's an affordable and efficient way to protect your business, your personal assets, and those of your senior managers.

What is typically covered?

- ✓ Claims investigation costs where inquiries or official investigations are conducted by a regulatory body
- ✓ Legal defence costs incurred as a result of defending an incident
- ✓ Damages and claimant costs awarded against you
- ✓ Statutory fines and penalties payable, subject to the terms and conditions of your policy
- ✓ Claims by employees for compensation for wrongful dismissal, bullying, harassment etc
- ✓ Loss due to fraudulent acts by employees

What isn't usually covered?

- ✗ Accidental injury and property damage to third parties
- ✗ Breaches of professional duty in relation to the professional services or advice provided
- ✗ Intentional or accidental discharge, dispersal, release or escape of pollutants
- ✗ Fraudulent, dishonest and wilful conduct
- ✗ Superannuation liabilities
- ✗ Claims arising from insolvency, liquidation, bankruptcy, receivership or administration

Did you know?

- 14,135 unfair dismissal applications were lodged with the Fair Work Commission during the 2016-17 financial year.
(Fair Work Commission Annual Report, 2016-17)
- Nearly 1 in 10 people report that they have been bullied at work in accordance with the strict Safe Work Australia definitions.
(Safe Work Australia, 2016)
- Penalties awarded against companies for work health and safety breaches increased by 43% to \$22.3M in one year. Penalties now average \$62,000 per company.
(Work Health Safety Report, 2014)
- \$25,370 is the average claim size for a SME under a Management Liability policy.
(DUAL Australia)
- The most common claims under a Management Liability policy are for breaches of employment practices, including bullying, harassment, & wrongful dismissal.
(Chubb Private Company Risk Report, 2016)

Claim Case Study

A Business Development Manager had his employment terminated on the basis that his position was made redundant.

The ex-employee issued proceedings in the Human Rights Commission as he believed that he was wrongfully terminated on the grounds that his former employer actually promoted someone else to his position, and that his former role was not in fact redundant.

He was able to prove his case and the Commission determined that he was wrongfully terminated. His ex-employer was ordered to reinstate the employee and pay him \$50,000 in damages and costs.

