



FIRE GUARD AND GET OUT OF JAIL CARDS

Directors and other senior staff have a wide range of legal responsibilities and face serious sanctions if they fail to meet them.

Some commonly held ideas are that:

- **Directors have limited liability** – actually you don't and even if you are not called "Director" you can still be personally liable.
- **The company can indemnify you** – sometimes this is true but it will not if it goes into liquidation.
- **It's not relevant we are only a small company** – size does not matter
- **No one can touch my personal assets** – yes, your personal assets are at risk.

In other words, while holding a senior position may bring prestige and rewards, it also brings pressures and threats. Directors and others in senior management within companies, can find themselves subject to a huge range of legal actions as a consequence of carrying out their duties.

There is no hiding place – individuals will often be held personally responsible for their actions and for the actions of others. This means they can be obliged to fund legal costs and settlements from their own resources with no aid from their company!

There are now over 200 offences in the Companies Act

- Failure of supervision
- Inaccuracy in statements of financial accounts
- Lack of judgement and good faith
- Mismanagement of funds
- Mis-statements in prospectuses
- Allotment of shares
- Unauthorized loans or investments
- Failure to obtain competitive bids
- Imprudent expansion resulting in a loss
- Using inside information
- Unwarranted dividend payment, salaries or compensation
- Misrepresentation in acquisition agreement for the purchase of another company
- Wrongful dismissal of an employee
- A director who uses their properly constituted powers in a way that the company did not dictate, can leave their company or co-directors, open to a claim.
- After a merger or acquisition, claims can be made by the acquiring shareholders that facts were misrepresented.
- An outbreak of illness, or spillage of pollutant, can result in actions brought by Health & Safety or the Environment Agency.
- Employees can take out actions for discrimination, working time directives or harassment.

One Solution is:

Directors and Officers insurance (D&O) covers Directors and Senior Staff against the cost of defending themselves against legal action brought against them as a consequence of carrying out their duties, including any damages that may be awarded. Cover includes such problems as employment disputes, shareholder actions, pollution liability and corporate manslaughter. It can also cover all relevant people within the organization, including spouses, outside Directors and employees.

Why have D&O protection?

Without insurance a director could have to fund any defence personally and in worse case scenarios uninsured directors could face personal bankruptcy.

Another protection tool is:-

Keyman, Director and Shareholder Protection

Keyman cover is normally taken out by the directors or partners of a company to cover key persons who work for them. If a key person falls ill or dies it may leave the company with a dilemma in trying to replace that person with someone of the same quality. The company normally takes out the policy on the life of the member of staff, and benefits can be made payable to the company or possibly dependants. The level of cover needed is determined by the persons salary and how long it is estimated it would take to replace him or her.