



DIRECTORS & OFFICERS LIABILITY

Directors and Officers Liability Insurance cover protects Directors and Officers against claims arising from decisions and actions taken whilst managing their Residents Association/Company.

WHAT ARE A DIRECTOR'S RESPONSIBILITIES?

The duties of a director have been established through statutes, regulations and case law and can be broken down into three key areas:

- ◆ **Duty of Care and Skill** - Common law duty requires Directors to act with 'the care an ordinary man would take in the same circumstances on his own behalf' and with the skill expected from someone with their 'particular knowledge and experience'
- ◆ **Fiduciary Duty** - Directors must act honestly, in good faith and in the best interest of the company and must ensure that they do not have any conflict of interest
- ◆ **Statutory Duty** - There are many statutes that affect the conduct of Directors and Officers including the Companies Act 1985, Environmental Protection Act 1990, Health and Safety at Work Act 1974, to name but a few

These responsibilities apply, regardless of whether or not the Director is remunerated by the Company.

WHO IS AN OFFICER?

The definition of 'Officer' is wide and can include a duly appointed trustee, governor, governing committee or governing body member, or volunteer working for the Company (whether or not such person is remunerated). They are bound by the same key three duties that a director is.



HOW DO CLAIMS ARISE?

If a Director or Officer is perceived to have failed in any of their duties, then a claim could come from any one of a number of third parties including:

- ◆ Residents
- ◆ Creditors
- ◆ Government and Regulatory bodies
- ◆ Employees (e.g. cleaners, gardeners)
- ◆ Auditors
- ◆ Suppliers

WHY BUY DIRECTORS AND OFFICERS LIABILITY INSURANCE?

In a claim situation (recent examples overleaf) a Director's or Officer's personal assets are at risk. They cannot rely on the Residents Association/Company indemnifying them. Often such an indemnity from the company will be in contravention of the Companies Act.

The Directors and Officers Liability Insurance Policy will pay on behalf of the Director their legal costs and expenses in defending a claim and any civil damages awarded against them.

THE CHANGING ENVIRONMENT

Current trends, including increased regulation and a greater understanding on the part of third parties of the duties and responsibilities of a Director, together with third parties generally greater awareness of their rights, are all now contributing to the once rare occurrence of a Directors and Officers claim becoming increasingly commonplace.

