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Management Liability/ Directors' & Officers' Insurance for Residential Management Companies

THE BASICS

- ◆ Directors of a Company can have claims made against them personally (for alleged wrongful acts that they commit in their capacity as Directors of their Company.) This includes volunteer Directors such as those who sit on the board of a Residential Management Company.
- ◆ Claims could come from parties who have an interest in the management of the building such as a leaseholder, the local council, or the Health and Safety Executive, suing the Directors of the Management Company for what they believe to be a bad management decision. There are many different circumstances that can lead to a claim being made against the Directors, and many different parties who can allege wrongdoing.
- ◆ The Management Liability (or “Directors’ & Officers’/D&O”) policy is designed to meet the costs of legal defence fees and judgements against the Directors – and so offers protection to you as Directors personally. Even a claim without merit can result in significant legal defence costs.
- ◆ The other side of this is that the policy will respond to reimburse the Management Company if it initially indemnifies its Directors following a claim (where this is permitted by your Company’s articles of association and also by law.)
- ◆ It’s not a compulsory class of insurance but, as it provides personal protection to Directors, it is often seen as a “must have” by individuals who take up a Directorship.
- ◆ It is a stand-alone policy and entirely separate from the main insurance policies.



THE LIMIT

Selecting a limit of liability is often a matter of personal attitude to risk and your own risk appetite – balancing the cost of higher premiums against the relatively remote chances of a multi-million pounds claim.

But we can never say how potentially expensive a claim could be in the most extreme circumstances; In thinking of the most extreme circumstances, we would normally be talking of a national tragedy like the Grenfell Tower fire, and such events remain incredibly rare.

However, below are some recent cases which are probably more representative of the scale of claim we typically see:

- ◆ A caretaker was killed following an accident involving machinery. The Health and Safety executive investigated the accident and concluded that two directors were responsible and should be cautioned personally. The incident was also reported to the Police and Crown Prosecution Office who brought a charge of manslaughter.
- ◆ An unruly family bought a flat in an otherwise select Block. The owner of an adjacent flat immediately put her property on the market and alleged that she had been forced to sell for £20,000 less than the true price. She is suing the Chairman and Secretary of the Management Company on the grounds that they have failed to discipline the family, who had clearly intimidated them.
- ◆ The Management Committee was held personally liable for failure to appoint a responsible builder to re-roof a large block of flats. The firm concerned botched the job and went into liquidation shortly afterwards. The work was so poor that most of it had to be done again.

For most Management Companies we would routinely offer a limit between £100k up to £3m – and it's not very common for our clients to request or to require more than £3m of cover.

A limit over £3m would typically be on larger or high-rise blocks which contain several hundreds of apartments or otherwise feature mixed commercial use such as gyms and restaurants.

PRACTICALITIES OF PLACING COVER AND PREMIUMS

At higher levels of liability, the policy would require a much more bespoke underwriting process, whereas we have access to an AXA policy that is specifically designed for Residential Property Management requirements, and which offers broad protection at a sensible premium.

The premium can be easily calculated based and is dependent on your required limit and on the number of units in your block and under the terms of our scheme with AXA, Employment Practices Liability cover and Entity Coverage (for claims made directly against the Company) are automatically included within the quoted premium.

If we need to go above AXA's standard limits, then we also have access to a range of insurers who can offer quotations on an "open market" basis.

The minimum premium for an open market policy likely represents a significant increase over our standard premiums but, with the support of our partner insurers, we can comfortably place limits up to £100m if needed.

Seeking open market quotation can take a few days, but where cover is required at very short notice then we can immediately place a policy providing up to £3m of cover, and then seek quotations for an excess layer policy that sits above the £3m primary policy. The excess policy would respond when a claim reaches the £3m primary limit. This means we can provide you with protection as soon as you contact us.

For more information on this topic, or to find out how we can help, please email info@alexanderbonhill.co.uk to discuss your needs.