



Management Liability

Wholesale insurance solutions
for UK risks

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GLOBAL RISKS

OVERVIEW OF
COVER

WHY AMWINS
GLOBAL RISKS FOR
MANAGEMENT
LIABILITY
INSURANCE

OUR
PROFESSIONAL
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RISK SOLUTIONS

RISK
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EXAMPLES OF
MANAGEMENT
LIABILITY
PROTECTION

EXAMPLES OF
PROTECTION

ABOUT AMWINS
GLOBAL RISKS

**The power of Amwins Global Risks:
\$39.8bn in annual premium
working for our UK clients
just as much as for our global clients.**





Overview of cover

Management Liability Insurance (known outside the UK as Directors' & Officers' Liability or D&O) covers legal defence costs (and in some instances, settlements) in cases such as wrongful termination, health and safety breaches, harassment, pension scheme administration, and even corporate insolvency and criminal allegations.

It's important to remember that Management Liability policies cover individual directors and senior executives, NOT the company.

Management Liability is designed to protect senior executives in the event of allegations by employees, shareholders, third parties, and even the company itself.

Senior managers and directors can be held liable not only for their own actions (or indeed inactions) but also the actions/inactions of colleagues, and some allegations can arise from situations occurring many years earlier - for this reason a robust Management Liability policy can also be an important element when recruiting candidates for senior positions.

With the UK's rigorous regulatory environment and strict corporate governance, we're seeing ever-increasing claims on management liability policies.

It can be extremely costly to defend against allegations (even where these are vexatious) so it's an important cover for client firms of all sizes but possibly even more so for smaller firms where even one case could put the financial stability of the whole firm, and the personal assets of individual directors, at risk.





Management Liability

Claims brought against individuals for acts committed in their capacity as directors or officers of the company.

Includes defence costs, awards of damages, settlements, representation costs at investigations, and personal liability for taxes in the event of insolvency of the company.



Employment Practices Liability (EPL)

Claims brought by employees for employment-related wrongful acts.

Includes settlements, damages and costs awarded against the company.



Pension Trustee Liability

Claims against the company, individual Trustees and corporate Trustees of the company's pension schemes and all other employee benefit plans, for acts committed in relation to the administration of these plans.

Includes settlements, damages and costs awarded against the company.



Crime

Loss resulting from crime committed by employees against the company, and by forgery and fraud committed by third parties.



Cyber Breach Response

Covers fees to detect and shut down a breach, and to identify and notify those affected by the breach.

Usually includes legal assistance to help respond to the relevant regulator.





Risk Management

Tips for your clients to help avoid Management Liability claims.

1.

Board members are required to know and understand the company's bylaws. Firms should make the bylaws available and easy to access for everyone involved and should follow all voting and election policies and procedures.

2.

Stay on top of any changes and conduct semi-annual reviews of all governing documents. Review any regulatory changes with a lawyer to understand their potential impact on the firm.

3.

Be sure that those who are new to a senior position know without a shadow of doubt what their position entails and provide them with the training they need to discharge their duties. Require them to read all bylaws before their position begins. Whenever recruiting or electing someone new, use it as an opportunity to refresh all board members.

4.

Document board minutes accurately and precisely so that there will be no questions as to what was discussed. Record communications with everyone involved in the day-to-day business (members, vendors, insurers etc). Keep concise financial records and always be sure to log complaints and responses for future reference.

5.

Avoid personal conflict and clashing personalities as these can lead to future problems. Ensure that all procedures are followed and that every member is heard and respected.



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Examples of protection Management Liability

Insolvency

In the event of insolvency, a Liquidator or Administrator will typically examine the company's transactions over the past three years and report on the conduct of the directors who served during that period. Claims against (an) individual director(s) may result if the insolvency practitioner believes any transaction represents inappropriate behaviour or wrongdoing, regardless of whether or not the individual received any personal benefit from the transaction(s) in question. Any past transactions can become the subject of allegations of financial mismanagement when creditors risk going unpaid even if, at the time, the actions appeared innocent and well meaning. If directors have been repaid some or all of any debts owed by the company to them, they may be accused of breaching their personal duties to the company on the grounds of preferential treatment to the detriment of other creditors (including HMRC).

Insured vs Insured

It is very common for the board of directors in private companies to be shareholders. In many cases they have close personal ties through marriage or long term friendships. Unfortunately even the closest of relationships can turn sour and lead to management liability claims. For example, should a director agree to sell their share in the business to the other(s), those selling their shares may accuse the other party of misrepresenting the true financial position of the company in their financial reports in order to avoid paying a fair price for their shares.

Mergers, acquisitions and management buyouts can lead to disputes and claims against both directors and companies for breaching the terms of agreement they committed to when completing such transactions.

Health & Safety

In the event of a serious accident at your workplace, the Health & Safety Executive can investigate. This may result in a prosecution of the company and/or individual directors and officers. Even in the absence of an accident, failing to comply with HSE legislation can result in directors and officers facing investigations and prosecutions.

Defamation

Directors and officers, and/or the company, could be sued for statements made about other parties (eg a competitor, customer or former employee) that they believe to be untrue and unfair. These statements could, for example, be made during an interview or in a new business pitch.





Examples of protection Employment Practices Liability

Dismissal

Even with adequate grounds to dismiss an employee, firms must demonstrate they have acted properly and treated the employee fairly.

Failure to do so may mean facing a tribunal. Significant defence costs could still be incurred proving that the company acted properly.

Allegations of unfair selection for redundancy are a common cause of employment claims. The company could be

accused of failing to follow a fair procedure and/or of discrimination, e.g. a selection based on attributes such as age, gender or ethnicity.

Discrimination

If an employee – or even an unsuccessful candidate for a vacancy - is feeling victimised because of, e.g., their race, religion or sexual orientation, they can bring a claim for discrimination.

Retaliation

If an employee alleges discrimination, or any other wrongful employment practice, and the company proves it has done nothing wrong, the employee could still bring a further claim if they subsequently feel the company has treated them badly because they made these allegations. The same applies to any actions that an employee feels are a result of them 'whistle blowing'.





Examples of protection Pension Trustee Liability

Administration Errors

Mistakes involving pension schemes can be costly. Failure to pass on correct information about members to the scheme provider can lead to claims against the Trustees, the Plan itself, or the company as the sponsoring employer of the scheme. Similarly, failure to carry out a member's instructions could result in a claim against the Trustees by members.

Regulatory Issues

The Pensions Regulator can investigate and bring actions against Trustees and employers if, for example, they believe that Trustees have acted outside their authority as defined by the scheme rules or if they think Trustees are failing to carry out their duties with sufficient care.

If a defined benefit plan is not adequately funded, the Pensions Regulator can investigate and take action against Trustees if they do not believe the Trustees have been assertive enough when negotiating funding plans with the sponsoring employer.

The Regulator can also carry out investigations and take enforcement action if they believe an employer is failing to meet their obligations with regards to the Automatic Enrolment requirements.

Trustees could also be sued for making poor financial decisions.



Examples of protection Crime

Employee Crime

There are many ways in which corrupt employees steal from their employers, eg false invoices to fictitious suppliers or creation of fictitious employee records in order to pay false salaries.

Third Party Crime

A legitimate looking email could contain malware that allows fraudsters to track activity on your network, gain security information and fraudulently transfer funds out of the company.

Social Engineering Fraud

A company may receive correspondence advising of a change to an existing supplier's payment information that in reality is directing the company to make payments to a fraudulent account. Or an employee may be contacted by somebody purporting to be a senior official of the company with instructions to transfer money to what is in fact a fraudulent bank account.





**Cyber attacks are frequent,
the cost is high, and yet
SMEs are currently
under-insured.**





Examples of protection Cyber Breach

Data Breach

If a company's systems are hacked by a third party giving them access to personal information such as customer addresses or payment information, the company would have to establish the extent of their access and notify the Information Commissioner and the Data Subjects of the breach.

An employee may lose a laptop or other hardware containing personal information, which could then be accessed by third parties. Again, the extent of any breach would have to be established and if necessary the Data Subjects and Information Commissioner notified.

Third parties may steal the company's or employees' personal data in order to sell on, again requiring the company to advise the affected individuals and the Data Commissioner.



Why Amwins Global Risks for Management Liability Insurance?

Let our experts guide you through the jargon and details of cover (eg: 'Side A' and 'Side B') so that you can help your clients secure appropriate and cost-effective cover.

With our outstanding market access, we can accommodate the needs of businesses of all sizes to support you and your clients when it really matters. We can also offer even faster cover at preferential rates with broad coverage via "ML Advanced" – a tailored Management Liability

online product that pre-populates the majority of information required straight from Companies House, enabling an accurate quote to be obtained in seconds. We believe it's one of the easiest and most flexible ML products in the market. And while the cover is one of the broadest available, the wording is straightforward and set out as five modules from which you can build the cover according to a client's needs.





About Amwins Global Risks

We may be global by name, but we still have dedicated teams serving only UK clients with UK risks. Your usual contacts are ready, willing and able to use their expertise to help you and your clients.

For over 50 years we've been wholesale broking as THB (originally Thompson Heath & Bond). Founded in the UK, we grew to be the largest specialty motor fleet wholesaler in the London Market, and now our UK teams provide wholesale broking services across commercial property and liability, motor fleet and a range of professional and financial risks. And for your UK clients with marine/cargo, energy, aviation or construction risks? We can help here too. We have specialist colleagues in other Amwins Global Risks divisions who place these risks day in, day out.

In terms of professional indemnity, our specialists focus on complex high hazard accounts where we can add real value for our brokers. Areas such as design and construct, cladding risks, brokers' PI and surveyors' professional indemnity.

Management Liability, Medical Malpractice and Cyber Liability risks can be difficult to place, and sometimes difficult to sell to clients too. Bring them to us at Amwins Global Risks. We use our market connections and the leverage that comes from being one of the world's largest specialist wholesale brokers, to find homes for hard-to-place business, and to develop schemes and delegated authority arrangements that are attractive both to our brokers and their clients.

That's the power of Amwins Global Risks: \$26 billion in annual premium working for our UK clients just as much as for our global clients.

And yes, our UK teams are still 100% wholesale – we have no competing retail arm.



Our professional and financial risk solutions



Professional Indemnity



Financial Institutions



Management Liability



Cyber Liability



Directors' & Officers'



Medical Malpractice





**We bring our market
power to help you succeed.**



Amwins Global Risks is the international division of Amwins, the largest specialty wholesale distributor in the world, placing more than \$39.8bn in annual premium. We place over \$2.8bn of that premium, bringing the market muscle and global reach required to find solutions for the most complex risks. With over 750 employees around the world, and a global footprint across more than 120 countries, we've cemented our place as a top 10 contributor to Lloyd's. We're the largest independent wholesale broker, and binding authority broker, in the London Market.

Visit amwingslobalrisks.com for more information.

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