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Insurance | Risk Management | Consulting

Directors' & Officers' Liability Insurance for Residential Management Companies

Taking on the role of director within your management company may expose you to personal financial risk. You can take out insurance to help protect yourself against this.

Volunteering to become a director of the company that manages a block of flats has many advantages, but by becoming a director of the company, you could be exposing yourself to potential financial risk.

If you make a decision that causes a financial loss to someone, perhaps another leaseholder or a contractor, you could be personally held financially liable. Or perhaps you unintentionally fail to comply with some regulations. Whether or not you are aware of them, you could still be personally liable for this failure.

The likelihood of being held liable may be small, but if something does happen, the consequences can be serious. It is important that you have specialists on your side to help you when you need them.

By taking out a Directors' & Officers' insurance policy through Gallagher, you can have the reassurance of a policy that has been specifically developed for Directors and Officers of residential management and the right to manage companies. Because policies are developed for specific risks, they can be cost-effective for the security they provide.

Here are some examples of likely scenarios:

- A director failed to identify and rectify essential repairs within his block of flats. As a result, the lessees saw the value of their property/investment fall, and a lawsuit was filed. The insurers helped defend the client where possible and paid compensation to the disgruntled lessees.
- A lady discovered there was a no-pet policy for a property she was interested in purchasing. Being a pet owner, this made her halt proceedings. Later that year, she happened to notice a dog in the window of the same flat on the block. Feeling unfairly treated and misinformed, she decided to take the directors and officers of the property to court. It transpired that the dog belonged to a visitor, not the owner, and she lost her case. Court and legal fees were covered by the directors D&O insurance, but they still had to give up their time and endure the hassle involved.
- An independent contractor was appointed by property directors to provide quotes for essential works and improvements. Without consulting the other lessees, the directors instructed the tradesmen to carry out the work. Insufficient funds were available to cover the costs, and the directors were liable for the costs involved. Directors' & Officers' covers, assisted in defending the directors and covering the claim made.
- Directors of a block of flats installed an automatic lighting system to help save the block money and reduce their carbon footprint. Unknowing to them, a Jewish family living at the property was outraged, as Jewish law prohibits the operation of electrical devices from dusk on a Friday until sunset on Saturday, Shomer Shabbos. A claim was filed and won, resulting in the automatic system being replaced with a suitable system.
- A disgruntled employee, working at a block of flats, filed a lawsuit against the limited company for alleged discrimination, suing for compensation. The company used its Directors' & Officers' liability insurance to fight the allegations and cover the legal costs involved.

Top ten reasons to consider buying Directors' & Officers' liability insurance:

1. Help protect yourself from litigation

Directors of RMCs are usually volunteers who willingly give their time to help look after their block and their fellow leaseholders. Unfortunately, we live in an increasingly litigious society, and in English Law, the directors of an RMC are treated exactly the same as the directors of a multimillion-pound PLC.

2. RMCs are just as vulnerable as large companies

RMCs are not exempt from D&O claims; they face exactly the same risks and regulations as larger companies but don't necessarily benefit from corporate legal teams — or bank balances to fund defending a claim.

3. Your personal assets are at risk

If you are a director of an RMC, ignorance of the law won't protect you. If you are accused of breaching your duties, you may be personally liable to defend any claims. Your personal assets are potentially at risk if you do not have suitable D&O cover.

4. Investigations by regulators are more common than you would think

As director of an RMC, you are responsible for ensuring your block meets health and safety executive guidelines. If a breach is discovered, you could be held personally liable, and in the worst-case scenario, if a fellow leaseholder or visitor suffered an injury on the premises, you may end up having to pay a fine or defend yourself in court.

5. Defending legal action can be costly

Legal costs for defending allegations against a company director can run into thousands of pounds.

6. Your fellow leaseholders could sue you

If the value of the properties in your block drops and it's found that the reduction in value can be traced to a breach of duty by the directors, it may have serious financial consequences.

7. When estimates go wrong

If you order work to be done on the premises that exceeds the estimate and there is no money in the management fund to pay for it, as a company director, you could end up having to pay for it yourself.

8. D&O claims are not usually covered under any other liability policy

A common misconception is that alleged misconduct by directors or companies is covered under other liability policies — it may not be.

9. D&O insurance could be more affordable than ever

The cost of a D&O policy for an RMC can start at £155,* yet the total cost of a D&O claim can run into thousands of pounds.

10. D&O cover may be a small price to pay

Having D&O insurance in place offers peace of mind to the volunteer directors who give up their time to help run your block.

Key features of our Directors' & Officers' Liability Insurance

The policy can provide you with cover against:**

- Legal liability for compensation awarded against you for wrongful acts committed in your role as director or officer — including any claimant costs you have to pay.
- The costs of defending the claims made against you if there is a defence your insurers can use.
- The costs of defending any employment-related claims, including awards made if you lose the case, including claims made against the management company rather than you personally.
- Costs incurred in defending you at a First-tier Tribunal at which you are named as a respondent.
- Costs incurred in representing you in court if charged with offences such as corporate manslaughter.
- The reasonable costs of attending an investigation that you are legally obliged to attend.

As you can see, there are two fundamental parts to the cover. Access to specialists to defend you against claims, and if this fails, payment of the compensation awarded plus claimant costs. With protection in place, you can focus on your roles and responsibilities as a director of the management company.



Our policy also includes the following additional benefits as standard**

- **Entity employment practice cover**

The policy will now cover you up to £25,000 against the costs of defending any employment-related claims. This includes awards made if you lose the case and also claims made against the management company rather than you personally.

- **Loss of documents**

We will now pay reasonable costs for the restoration or replacement of lost or damaged records, including financial documents kept on computer, for which you are legally responsible, up to a limit of £100,000.

- **Taxes and employee compensation**

The policy includes cover for financial loss relating to corporate taxes owed by you up to £50,000. This also includes any employee compensation that is owed.

- **Enhanced company contractual liability defence costs**

Legal costs for defending an allegation against a company director can run into thousands of pounds. Our reduced exclusions and increased cover to £50,000 were developed to make this cover more comprehensive.

- **Identity fraud**

If someone poses as you and then enters into an agreement with a third party, we will now pay reasonable fees and costs to help establish that such fraud has occurred.

*Based on a block of up to 25 flats and a selected limit of liability of £100,000 that has been claim-free and subject to a satisfactorily completed statement of fact.

**As with all insurance policies, the policy is subject to limits, conditions, and exclusions. For more information, please contact us, or request a full summary of the cover or the full policy terms and conditions.

Would you like to talk?

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