

## Directors' and Officers' Risks to Understand in 2021

While senior leaders play key roles in the success and improvement of an organisation, these employees also carry a considerable amount of risk. Directors and officers can be major liabilities. Misconduct or negligence that may be committed by these leaders can result in subordinates taking legal action, government-issued penalties and irreparable damage to an organisation's finances or reputation.

In order to protect themselves from the risks and liabilities associated with their leaders, employers should take the time to understand current trends related to directors' and officers' (D&O) insurance and claims.

### Looking Ahead in 2021

There are many different risks and liabilities that may lead to D&O claims being filed. Certain potential sources of legal action have become more prevalent in recent years for a variety of reasons. Employers should consider the following potential issues and assess how their organisation can minimise the chance of a problem arising:

- **Insolvency**—These claims have traditionally been one of the largest sources of losses. Insolvency often results in claims being filed while plaintiffs attempt to recoup losses from directors. With many experts predicting that the UK economy will struggle in 2021, insolvency may become a more frequent issue. With that in mind, it is likely that this type of claim will also become even more common.
- **Cyber-crime**—Data breaches and cyber-incidents can lead to severe losses for an organisation, but the fallout can result in even further damage.

Following a cyber-incident, directors and officers may be blamed for not ensuring that proper cyber-security measures were taken. These leaders may then be targeted by those seeking compensation. With remote work expected to be a permanent element of many workplaces, and the rising importance of technology across many sectors, cyber-incidents and the resulting claims are serious threats that must be accounted for. Organisations should prioritise cyber-security precautions, such as backing up important information, monitoring internal networks and regularly training employees on how to recognise phishing and social engineering tactics.

- **Workplace misconduct**—Bullying, harassment and misconduct are hardly new issues when it comes to liabilities for employers to address. However, claims related to these issues are expected to become even more of a liability for employers in the future. Younger workers tend to take workplace misconduct more seriously than their older colleagues and are less willing to tolerate bullying or harassment. If a worker becomes a victim of unacceptable workplace behaviour—whether the source be a superior or a colleague—directors and officers may face prosecution for failing to provide employees with a safe work environment.
- **Environmental issues**—Societal concern regarding climate change has increased in recent years. As such, directors and officers are being held to a higher standard when it comes to making decisions that are conscious of the environment. Organisations and their leaders may be at risk of facing a claim if they are suspected of contributing to global warming or causing an environmental

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incident. Leadership must be sure that their organisation is in compliance with any climate-related regulations or requirements.

- **Lack of diversity**—Many organisations have already been targeted with legal action alleging that leadership has not done enough to encourage and increase diversity in the workplace. Activists against systemic racism have become more vocal in recent years as they demand equal opportunities for people of all races, genders, religions and orientations. Furthermore, UK employers with over 250 employees are now required to [report gender pay gap information](#). This creates another potential liability for organisations if they do not actively attempt to address disparities. With all of this in mind, it is clear that it will continue to be important for employers and their leaders to prioritise equality, diversity and inclusivity in the future.

As 2021 gets under way, organisations of all types and sizes are facing uncertain times in an unpredictable economy. Even minor legal claims may affect an employer's ability to make ends meet. As such, it is of the utmost importance that directors and officers are held to a high standard, and that organisations assess and minimise any related risks.

For more information on D&O insurance and claims, contact us today.