Protect yourself against lawsuits

Directors and businesses face a growing threat of litigation in the wake of new legislation and stricter regulations. Lee Rhodes (left) of insurance specialist Quantum tells Director how you can avoid the pitfalls.

There's no doubt that the risk of lawsuits against companies and directors is increasing, says Lee Rhodes, director of Quantum. And it's expected to worsen, he explains. "Tesco's financial woes are anticipated to break new ground from a shareholder lawsuit standpoint, with the directors presiding at the time directly in the public spotlight."

"The regulatory landscape has changed forever and directors face many more sources of potential regulatory investigation into the way they run the company's affairs. Regulators are acting in a much more co-ordinated way with the Serious Fraud Office and the Financial Conduct Authority, in particular, collaborating on which companies (and their directors) merit closer scrutiny."

Numerous companies, says Rhodes, have been brought to task over their lack of anti-bribery risk management. While these have focused on overseas activities so far, it's believed that the first high-profile UK case could emerge this year.

The Insurance Times recently listed the top five risks to businesses. These were: regulatory and other enquiries; anti-corruption laws (including the Bribery Act); criminal and regulatory fines and penalties; the risk of being sued abroad; and the multiplicity of sanctions regimes and of affected regimes.

"The Companies Act 2006 first published the circumstances under which any director could be held personally responsible and even went as far as laying out seven specific duties that each director must adhere to," says Rhodes. "The powerful combination of new legislation, a stricter regulatory regime and a more litigious corporate climate should not be underestimated."

The third sector is also not immune from examination, with similar duties owed by organisational directors, officers and trustees.

"Ample insurance protection is available, in the form of Directors and Officers Insurance (D&O), from a number of credible insurers," adds Rhodes. Leading underwriters are also developing new specialist covers in response to the changing risks. These include specialist cover for the entity itself, employment practices and benefit plans (such as pensions) and initial public offerings. The latest generation of developments provide cover for employee crime and employee kidnap, ransom and extortion."

In association with Quantum Underwriting Solutions, the IoD provides members with advice and market-leading policies from Chubb Insurance. Policies are also available for non-members (premiums differ).

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