



D&O CLAIM EXAMPLES

Below are examples of things that could go wrong for a director, officer or senior manager, all of which would normally be covered under a MUM D&O policy:

- The Managing Director of a factory was prosecuted following an outbreak of Legionnaires' disease emanating from its water cooling system, which led to the deaths of several people visiting a neighbouring shopping centre. The director was involved in a lengthy criminal trial, which eventually collapsed.
- A director of a telecoms company authorised a large payment to its major supplier, without whose services the business could not continue. At the time the company was having cash flow difficulties and it went into liquidation shortly after the payment was made. DBIS brought proceedings against the director under the Company Directors Disqualification Act (CDDA). The case concerned issues of possible wrongful trading, but the CDDA proceedings were successfully contested with the support of specialist lawyers appointed to advise the director.
- The directors of a company faced court proceedings by the Liquidators and a major creditor, following their disposal of a subsidiary company which subsequently went into liquidation. The Liquidators alleged that monies from the sale were wrongly diverted away by the directors so that the creditors were prejudiced in the insolvency. The creditor claimed that the alleged diversion of funds amounted to a fraud on the creditors. This would be covered unless there was an actual finding of fraud against a given director (in which case the claim against that director would be excluded).
- Several named directors of a furniture business faced allegations of unfair dismissal and disability discrimination in the form of an Employment Tribunal claim by an ex-employee. The ex-employee claimed damages for injury to feelings and loss of earnings.
- The directors of a Right to Manage Property Company successfully defended allegations relating to the making of false and fraudulent representations to Companies House, acting unlawfully disregarding the Companies Act 2006 and unlawfully and unilaterally purported to amend the company's Article of Association. Of course, had they actually broken the law it is likely that cover could not have applied.
- The directors of a website provider and developer, in liquidation, faced an investigation into the affairs of the company and relating to the provision of allegedly false information and accounts, and a failure to assist the administrator during the administration. The liquidator's investigations, pursuant to sections 235 and 236 of the Insolvency Act 1986, had to be dealt with in order to head off subsequent disqualification proceedings.