

INSURANCE.

Insurance for businesses.

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PROTECTING YOUR BUSINESS.

An integral part of any business, insurance is essential for protecting your employees, assets and customers.

It will shield a business from the financial consequences of an unexpected loss or a disaster. It can also prevent financial hardship that could risk your business and livelihood. It is an essential part of a business's risk management strategy.

Many types of insurance are legally required in the UK with businesses expected to initiate cover from the beginning of their operational period.

Additionally, insurance may be required by the rules of a professional body; for example solicitors, insurance brokers, accountants, independent financial advisors and architects must all have professional indemnity insurance to cover the consequences of potential negligence.

And some contracts that you enter into with customers might oblige you to put certain insurances in place, sometimes as a pre-requisite of doing business with them or for the duration of a particular project.

What types of insurance should you be thinking about ...and why?

There are three main areas where you need to consider your business' insurance requirements:

1. Insurances that protect against loss or damage caused by adverse events (such as fire, inclement weather, flood, theft, natural disaster, insolvency of your customers etc)

Specific areas of insurance could include cover for:

- Theft
- Property: damage to buildings and contents

- Business interruption: covers loss of business income caused by property damage
- Trade credit: protects against the financial risk of your customers going into administration and not paying you

2. Insurances that cover liabilities to third parties

Some insurances are made compulsory by law:

- Employer's liability: insurance against legal liability for injury, disease or death suffered by your employees (with a minimum limit of £5 million); and
- Third party motor: liability for injury caused to others and damage to their property arising from the use of company vehicles

Other areas of liability that you may need to consider insurance for include:

- Public liability: covers liability to pay damages to members of the public for death, injury or damage to their property caused by your business
- Product liability: if you make, repair or sell products, you could be liable for damage or injury arising from defects in their design or manufacture
- Cyber liability: especially if your business is engaged in e-commerce activities or conducts business transactions online
- Professional indemnity: covers the financial consequences of your business giving negligent advice to your clients and customers
- Directors and officers: covers claims made against directors in their personal capacity and the costs involved in dealing with investigations or prosecutions by regulatory authorities

3. Insurances that protect you and your employees against the consequences of serious illness, injury or death

Areas of insurance you might consider are personal accident and sickness, income protection, private medical insurance, life insurance, "key man" and pensions.

The best advice is to work closely with your broker to understand how much insurance you need, in what areas of your business and at what price.

Making sure your insurances pay out on a claim

There is no point in having an insurance policy if it doesn't pay out in the event of a claim; it is just money wasted, particularly when times are tight.

Given the amount of money that business spends on insurance, and the devastating consequences of the insurance not paying out on a claim, it is very important to treat insurance as a valuable business asset and an integral part of any sensible risk management strategy. This will then minimise the possibility of policy coverage disputes arising with your insurers. Claims then get paid more quickly and your business will be in a much better position to get back on its feet after a loss.

Some important points that you need to think about include:

- How long does the policy last and who is insured under it?
- Do you understand what losses a policy would and would not cover?
- Work with your brokers to make sure you really understand any insurances that you are thinking about buying. Think carefully about the effect of exclusions and limitations that insurers put on the policy
- Have you got the right amount of cover in place? Keep this under review
- Think very carefully about the correct presentation of the risk to the insurer. Because if you don't get it right your insurer may be able to reject your claim; the duty of utmost good faith, unique to insurance contracts puts the onus on the insured to disclose all the facts and circumstances material to the risk presented to the insurer
- Make sure you comply with the policy requirements on an ongoing basis (for example, as to levels of security in a property, alarm conditions, fire precautions) and understand how those work and how they impact on the day to day running of the business
- Appoint someone in the business to be responsible for insurance, for liaising with your broker, for handling renewals, for notifying claims etc

If you have to make a claim:

- Make sure you do so strictly in accordance with the terms of the policy: if you have a claim don't delay in telling insurers about it
- Insurers might be very specific over what documentation policyholders need to provide to them in support of a claim and over what period of time
- And if you need to spend money on professionals to help you with an incident, you may need your insurers' consent

- Remember your obligation to co-operate with insurers as they investigate the claim
- Don't make any admissions of liability

Squire Sanders Hammonds' Insurance Expertise

Having a lawyer who knows the insurance ropes can be critical. Someone who knows about insurance policy wordings, knows about insurance practices and has many years of experience of acting sometimes for insurers, sometimes for corporate policyholders. At Squire Sanders Hammonds we have that knowledge and experience right here in Birmingham. We advise clients on insurance issues in all industry sectors, ranging from manufacturing and education, to financial services, retail and technology.

Here is a sample of the cases our lawyers in Birmingham have successfully dealt with in the recent past:

- Representing a FTSE 250 PLC client on a multi-million pound insurance coverage issue under its material damage/business interruption insurance policy following the explosion at the Buncefield oil depot in December 2005
- Advising insurers on a portfolio of complex and high value policy coverage disputes following on from high value property damage claims by insureds
- Representing a global services provider in the insolvency industry in a multi-million pound insurance dispute with its insurers and brokers following a fire at one of its key storage facilities
- Acting for the board of directors of a global services provider on the presentation of complex claims under a directors and officers liability insurance programme
- Advising the insurers of a large network of IFAs on policy coverage issues following claims made under a professional indemnity programme concerning the mis-selling of retail financial services products
- Acting for an engineering client in a complex product liability claim involving multi-parties and their insurers including allegations of negligence, flawed design, manufacture and installation of an electrical switchboard which subsequently exploded and caused significant property damage
- Advising insurers on a range of domestic and commercial claims arising from escapes of water following on from negligently installed heating systems and pipe-work and pursuing subrogated recovery claims for insurers against subcontractors
- Representing an international logistics provider on the successful resolution of a dispute with insurers following the rejection of high value claims by its marine cargo and business interruption insurers following the failure of a key IT system at its supply chain hub



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