# **UK bosses could face a wave of coronavirus-related Directors & Officers claims…**

Administrators, managers and directors of any company, regardless of its size or activities, carry significant responsibilities in relation to the way they conduct themselves and justify the trust placed in them. This may result in claims against them for actual and alleged breach of duty, neglect, misstatements, errors and omissions.

Actions against the company and its management can involve a high degree of personal liability for these individuals. With potential penalties that range from hefty fines, all the way to disqualification and possible imprisonment, the need for an immediate and effective response to any threat is clear.

**An uptick in litigation targeting directors and officers is a likely consequence of the current Covid-19 pandemic.**

UK insurers are preparing for fresh class action lawsuits and coronavirus-related Directors and Officers’ (D&O) claims to be brought by shareholders, staff and customers after two legal cases were filed in the US recently.

An increase in litigation, and targeting directors and officers across industry sectors, is a likely, and unwelcome, consequence of the coronavirus pandemic.

Recently claimants have accused companies of making misleading statements about coronavirus, their plans to sell products, or boost share prices.

## **Recouping the cost**

Firms that face legal action use D&O insurance to pay their executives’ defence costs and any penalties awarded by the courts.

Although many classes of insurance, such as business interruption (BI) and event cancellation, exclude epidemics, D&O insurance can, according to the contract in place, provide cover to recoup costs triggered by Covid-19.

It is a challenging time to be a director or manager in any business. D&O insurance provides legal defence costs and settlement for claims brought against the directors, or the corporate entity.

**Where can a claim come from?**

 Companies Act 2006

(hundreds of possible areas of non–compliance)

 Employment practice liability

 Health and safety at work

 GDPR - General Data Protection Regulation

 Disability Discrimination Act

 Racial, sexual and age discrimination

 Insolvency Act

 Corporate manslaughter

 Pollution

 Former directors and non-executives

 Mergers and acquisitions

 E.U. directives and regulations

 Investigation expenses

 Consumer protection

For an example, one shareholder of a business filed a class action complaint on 16 March against the firm and its chief executive, citing “misstatements” that the company had developed a coronavirus vaccine in three hours, according to Reuters.

Meanwhile, a securities fraud class action lawsuit was filed against Norwegian Cruise Line Holdings and its chief executive and chief financial officer on 18 March, claiming that the company made misleading statements about the virus to encourage customers to book cruises.

## **Under pressure**The pressure on insurers will be significant, while the legal costs are increasing dramatically.

The market is reacting and we are seeing changes in policy wordings looking at the potential for specific Covid-19 exclusions going forward, or exclusions arising from bodily injury or illness.

One thing is for sure, Directors & Officers are at risk from a myriad of exposures and are not protected by their Ltd Company status from being pursued personally for negligence.

If you would like to discuss any aspect of this issue further, then please contact us.

info@ascendbroking.co.uk Tel: 01245 449060 [www.ascendbroking.co.uk](http://www.ascendbroking.co.uk)

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Notes

Ascend Broking have launched a new Directors & Officers insurance package that include the insights and advice from legal that can help guide you through a wide range of **Coronavirus**-related issues and the **legal implications** and processes they need to follow, including:

* employee safety
* sick pay confusion
* effect of employees self-isolating
* operational contingency planning
* temporary closure
* furloughing

The services are designed to be easy to access, through a range of complimentary channels:

* **web portal**

Written in simple everyday language, the online portal gives you 24/7 access to guidance, videos answering frequent questions and downloadable templates.

* **Phone and email advisory services and crisis line**

To complement the online portal, there are a team of UK-based legal advisors, solicitors, and regulatory experts who are contactable via email or phone between 8am – 6pm Monday to Friday. There is no limit to the number of times you client can call. Their24/7 crisis support line is available for **business crime a**nd **regulatory emergencies** outside of these hours. All legal advice provided by the supplier is protected by legal privilege, meaning it is confidential.

* **Mobile App**

**Mobile App** is an intelligent legal assistant for business. Using predictive text and voice recognition, her answers to questions regarding organisations' legal queries can be delivered to your smartphone or other device, wherever you are, whenever you need them.

Further information on these services is available in this [short video](https://www2.axa-insurance.co.uk/e/471271/we-change-things-video/3kbvnv/347514327?h=Mec65P4MSLwOFuuG5IdNimfyThZ8bW91HSsK7UfWQuY).