

MANAGEMENT LIABILITY INSURANCE EXPLAINED

Unintentional mis-management or mistakes in any business can often mean a claim from a third party for some form of damages or in some cases a regulatory authority investigation such as a Workplace Health & Safety investigation after a serious workplace accident, as an example.

A Management Liability policy can cover these types of risks and would be considered an essential policy that should be included in healthcare clinics insurance program.

WHAT IS MANAGEMENT LIABILITY INSURANCE?

Management Liability in Australia is the legal responsibility of company directors and officers for their actions or decisions. Essentially, it's like being personally accountable for the company's choices.

Management Liability Insurance acts as a safety net. It protects both individuals and the company from legal claims arising from management decisions. This insurance covers claims against the company itself, as well as claims made directly against the directors and officers and can help with legal fees, settlements, and any compensation the company might owe.

Examples of claims include lawsuits from shareholders, employees, or suppliers who believe the company was mismanaged.



HINT Australian Management Liability laws can be intricate. It's crucial to have a comprehensive policy that covers a wide range of risks. Avoid 'tack-on' versions often included in basic business insurance packages, as they may not provide adequate protection for complex business sectors such as healthcare.

WHAT RISKS DOES THIS TYPE OF POLICY COVER?

Insurer's policies do vary but basically this type of policy is made up of a number covers to protect the business and owners from the risks of operating a company under the Corporations Act. A good quality management liability policy should cover:

- Employment Practices Liability,
- Workplace Health & Safety Investigation Defence Costs,
- Fidelity and Theft Risks,
- Fines and Penalties,
- Tax Audit Expenses,
- Directors and Officer Risks and in some cases,
- Unintentional Insolvent Trading or Intellectual Property Breaches.



HINT This type of policy is often confused with Professional Indemnity or Public and Product Liability insurances. All are very different and cover different business risks.


- **Management Liability** policies cover the management activities of a company
- **Professional indemnity** covers the provision of advice and professional services of the company.
- **Public and Product Liability** is the risk to the public from your business products and activities.

UNDERSTANDING YOUR MANAGEMENT LIABILITY POLICY AND MINIMIZING RISK

Management Liability policies have several sections that are designed to address different operational risks. Insurers have an expectation that you have minimized your risk by engaging in sound best practice business procedures.

Directors Liability Insurance


Protects directors and officers from claims of wrongful actions in their roles. If the company covers their legal costs, the company can also claim reimbursement under this policy.

 **HINT** To minimize risk, consider:

- Supply chain risk reduction
- Meeting financial and contractual obligations
- Adhering to legal compliance

Corporate Liability


Protects the company itself from claims of wrongful acts.

 **HINT** To reduce risk, consider:

- Business structure
- Management Liability insurance
- Understanding business and government regulations

Employment Practices Liability (EPL)


Protects employers from employee claims like discrimination, unfair dismissal, or harassment.

 **HINT** To reduce risk, consider:

- Zero-tolerance policies
- Employee handbook
- Clear job descriptions
- Company culture

Statutory Liability


Covers fines, penalties, and legal defense for legislative breaches.

 **HINT** To reduce risk, consider:

- Risk management planning
- Adequate insurance coverage
- Understanding policy coverage

Tax Audit

Covers costs associated with an ATO tax audit.

 **HINT** To reduce risk, consider:

- Appropriate Accounting Principles
- Claiming only eligible deductions
- Accurate financial records
- Tax Audit Insurance

MANAGEMENT LIABILITY CLAIMS EXAMPLES

Directors and Officers Liability (D&O) Claims

- **Wrongful termination:** A former employee sues for unfair dismissal or breach of contract.
- **Negligent oversight:** A company is accused of failing to supervise employees, leading to a lawsuit.
- **Breach of fiduciary duty:** A director is accused of acting in their own best interests rather than the company's.
- **Misrepresentation:** A company is sued for providing false or misleading information to investors or shareholders.

Employment Practices Liability (EPL) Claims

- **Discrimination:** An employee sues for discrimination based on factors such as race, gender, age, or disability.
- **Harassment:** An employee sues for sexual harassment, hostile work environment, or bullying.
- **Retaliation:** An employee sues for being punished for reporting wrongdoing or discrimination.
- **Wrongful termination:** As mentioned above, a former employee sues for unfair dismissal.