



# Brokerwise

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## The silly season

### IT'S THAT TIME OF YEAR AGAIN

Staff Christmas parties, end of year functions with clients, even the Friday afternoon "beer o'clock" gets to be that bit more of an event. The invitations seem to come in earlier every year.

Alcohol is a social lubricant and flows freely at all manner of events especially at this time of year. People are relaxed and have their guards down. Unfortunately, as with everything in life, there are risks. The simmering disagreement between colleagues and workmates or that really irritating client can reach flash point when everyone's had a few drinks. The flirting with someone you work with suddenly turns into something more. We've all seen it and many have been there.

The personal consequences for the people involved can be distressing, as relationships are strained or broken. The consequences for a business can be much worse. Let's examine a couple of scenarios.

#### Bring Back the Biff

##### Scenario 1

There has been something more than just friendly rivalry between two of your employees. They just don't like each other and everyone feels the tension.

It's the night of the staff Christmas drinks. It's hot and everyone has had a few and then these two start having a go at each other that turns into a brawl.

It's unpleasant and ruins the night for everyone. Maybe it even loses you a good employee or two. But wait, there's more. You could get sued. It was a work function. People were there because they work for the business. That is enough of a connection with employment for a WorkCover claim to stand up.

You, the boss, you're thinking "How can it be my fault?" Some of the arguments a lawyer will put up will be:

- Did you ensure you followed the guidelines for responsible service of alcohol?
- Was the conflict managed before it got to this point?
- Is there a code of conduct or standard of behaviour for employees that is clear on what to do in the case of conflicts and disputes?

If you don't have good answers to these questions, you are looking at a very unpleasant and costly start to the New Year.

#### The Magic of Mistletoe

##### Scenario 2

Two employees or an employee and a client or an employee and a service provider have been harmlessly flirting. After a few drinks and then a few more, someone lets their guard down and the next morning people are waking up with hangovers and regrets.

As with the Biff, it could cost those involved personally and could impact on your business as staff leave or clients and service providers distance themselves. But again, you could get sued. If it was the office junior and a manager, you're looking at serious sexual harassment issues.

The questions you'll have to be able to answer will be:

- Did you ensure you followed the guidelines for responsible service of alcohol?
- Is there a code of conduct or standard of behaviour for employees that is clear on relationships and physical contact in the workplace?
- What policies and procedures do you have in place for sexual harassment, discrimination and the like?

#### What Can You Do?

Murphy's Law says that if something can go wrong it will. The best you can do is to limit the risks and the impact to your business and your people. Ensure you have clearly in place:

- Code of conduct – expectations of staff and guests at functions
- Responsible service of alcohol guidelines are followed
- Check your insurance – public liability for clients/guests on your premises, workers' compensation for employees.

Make an appointment with your broker and make sure you are covered, just in case 'jolly' turns into 'folly'. ■

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## Breathe easy

### FESTIVE SEASON PREPARATION

The lead up to Christmas and the holiday month of January is a busy time for most of us but it's important that during the festive season hustle and bustle we take the time to consider the protection of our homes and families in this notoriously high risk period of bush fires, storms, road accidents and other threats to person and property.

It's hard to fully prepare for unseen events that may be lurking, just waiting to spoil things. We're aware of the dangers and most of us have seen government promotions about bushfire

and storm protection with belongings whirling around the yard and slamming into houses; and the nightly reports of an ever increasing road toll. The best we can do is take all the steps we can to protect our homes from storm and tempest and, if going away, leaving the house as secure as possible. Heading off on that road trip can be great fun but be wise - do the vehicle safety check, plan your route and allow plenty of time to get where you're going.

If your spread of insurance against the usual calamities is up-to-date, you can probably breathe easy, if not, an appointment with your broker is highly recommended.

Enjoy the holidays, come back refreshed and ready to take on 2010. It promises to be an interesting year. ■



## Please explain

### INSURANCE TERMS AND WHAT THEY MEAN

The insurance industry uses technical terms, usually for reasons of precise meaning, which are not necessarily easily understood by the non-insurance business public. Here are translations of a few of the more commonly used terms.

#### AVERAGE (EXCLUDING MARINE POLICIES)

A clause in insurance policies whereby, in the event of under-insurance, the claim paid out by the insurer is restricted to the same proportion of the loss as the sum insured under the policy bears to the total value of the insured item.

#### AVERAGE (MARINE POLICIES)

In Marine policies the word Average has a totally different meaning. It simply means a Loss. There are two common terms used: **General Average** where a loss applies to all involved in the sea voyage, and; **Particular Average** where a partial loss applies to one or more parties but not all parties.

#### DEDUCTIBLE

The specified amount a loss must exceed before a claim is payable. Only the amount which is in excess of the deductible is recoverable.

#### ENDORSEMENT

Documentary evidence of a change in the wording of or cover offered by an existing policy or qualification of wording if the policy is written on restricted terms.

#### EXCLUSION

A provision in a policy that excludes the insurer's liability in certain circumstances or for specified types of loss.

#### EX-GRATIA PAYMENT

A payment made by an insurer to a policyholder where there is no legal liability so to pay.

#### FSG (FINANCIAL SERVICES GUIDE)

A document which sets out information to the client of how the broker does business and acts for the client.

#### INDEMNITY

A principle whereby the insurer seeks to place the insured in the same position after a loss as he occupied immediately before the loss (as far as possible).

#### LIMIT

The insurer's maximum liability under an insurance, which may be expressed 'per accident', 'per event', 'per occurrence', 'per annum', etc

#### NON-DISCLOSURE

The failure by the insured or his broker to disclose a material fact or circumstance to the underwriter before acceptance of the risk.

#### PDS (PRODUCT DISCLOSURE STATEMENT)

A document issued by the insurer that highlights significant information about the policy which the client should be aware of. A PDS should be provided to retail clients prior to them making a decision to purchase an insurance policy.

#### SCHEDULE

The part of a policy containing information peculiar to that particular risk. ■



# Handing over the reins

## HOW PREPARED ARE YOU?

Succession planning is an essential part of the process of running a business but when all is well and the business running smoothly it's easy to put off this important task, especially when ownership change is not only well down the track but well over the horizon.

Timely business succession planning involves preparing for the smooth continuation and success of a business in all its endeavours, particularly if the business depends greatly on the availability of skilled and experienced staff.

Of major concern is the business with no successor to drive it once the leader or key person leaves – either by choice or other circumstances. So whether you decide to sell up, retire or need to get out of business due to health reasons, it's important that your plan for that day has priority. By planning

your exit well in advance you can maximise the value of your business; enable it to meet your future needs and achieve a smooth transition with less likelihood of disruption to operations.

It is crucial that directors and business owners clearly outline how a business share is to be transferred. This part of the succession plan usually includes a transfer agreement (often referred to as a 'buy/sell agreement') and a funding mechanism.

### Buy/sell agreement

The buy/sell agreement will generally cover how the business will be valued; what trigger events will affect the transfer of business shares; how the purchase of the business shares will be funded; and who will receive the shares. Naturally, input from your lawyer and accountant would also be an essential part of the process.

### Funding mechanism

In the event that a transfer of ownership

is triggered by death or disability and incapacity the funding mechanism is usually through insurance. This is because only a relatively small outlay is required compared to the size of the potential payout. For non-insurable events such as retirement, other products such as vendor financing and other lending facilities could be utilised.

Independent professional advice should be sought from your lawyer and accountant as there are likely to be taxation implications associated with the transfer of business shares. Diligent preparation will help to ensure that your personal and financial objectives are met, and your business asset is safeguarded.

You've worked long and hard to get where you are today. Reap the benefits of your years in business by preparing for the continued success of it in the hands of your successors and also ensure a continued source of retirement income for yourself. A sound succession plan is the key. ■

# One policy for all

## CORPORATE TRAVEL – ANNUAL COVER

If your business has employees who are required to travel for work within Australia or abroad, you should ensure that you and they are not exposed to potentially large losses as a result of these travels.

Expenses for medical treatment, emergency medical evacuation, flight cancellations, hire car excesses or lost luggage are several common losses that companies can face when their employees are on business trips.

Most firms tend to forget about arranging travel insurance or alternatively arrange a series of single travel policies via their travel agent.

By far the best option to ensure a broader and generally more cost effective cover is an annual corporate travel insurance policy via your insurance broker.

Annual corporate travel insurance policies can be tailor-made to protect your business from all kinds of business travel expenses, including:

- Personal Injury
- Medical Expenses
- Emergency Medical Evacuation
- Repatriation of Remains
- Cancellation/Curtailment Additional Expenses
- Personal Liability
- Luggage, Money, Travel Documents
- Alternative Employee and Additional Expenses
- Hire Car Excesses
- Missed Transport Connections
- Extra Territorial Workers Compensation
- Kidnap, Ransom & Extortion
- Political and Natural Disaster Evacuation

Most insurers will automatically include private travel connected with a business trip and extend this cover to include accompanying spouses and dependent children. Some insurers automatically provide cover for pre-existing medical conditions as long as the traveller is medically fit at the time of departure or at the time of arranging the business trip (and is not travelling against medical advice). This saves considerable time and money not having to go cap in hand to an insurer seeking approval for a medical condition.

If you travel more than a few times a year then annual corporate travel insurance is for you. That's because it gives you flexibility and you are covered for every trip without having to remember to apply for a single policy every time. You will most certainly save time and money. ■

# Be careful where you sit

## DIRECTORS DUTIES

Directors of private and public companies, associations and not-for-profit organisations have a legal responsibility to ensure they are adequately informed about all activities of the organisation on whose board they sit. As difficult as it may sometimes be to keep abreast of corporate or organisational business, the price to pay for mere 'seat warming' or decision rubber stamping could very well result in bankruptcy or worse for any director found wanting in his or her duties.



When directors find themselves in court to answer charges of corporate incompetence or malfeasance, defences of "I can't remember" or "that was not my responsibility" are not adequate defences.

A director of a not-for-profit organisation whose defence was "I'm an honorary director and can't be expected to have knowledge of financial statements" was held liable for \$97 million by the Court in the wrap up of the Victorian Safety Council liquidation.

The directors of James Hardie Industries who gave evidence to ASIC claimed they could not recall approving the ASX announcement that the asbestos fund was adequately funded. Their defence of poor memory was rejected by the Court and these directors subsequently have all received fines and bans on holding corporate office.

The days of responsibility evasion via the 'corporate veil' are long gone and those invited to sit on a board whether it be a 'not for profit' organisation or a business doing well and going places, should pause and consider the ramifications of failure further down the track, however caused.

Having Directors and Officers insurance in place offers reasonable protection and is considered an essential part of modern day business. Clarification of what D&O insurance can and cannot do for you in your business and private functionary endeavours can be provided by your insurance broker. ■

Be sure. Before you insure!

Ask your Council of Queensland Insurance Broker about...

### COMMERCIAL AND RETAIL INSURANCE

- Business Property
- Business Interruption and Loss of Rent
- Liability, Money, Glass Breakage
- Burglary
- Machinery Breakdown
- Computer
- Goods in Transit
- Contractors Risk
- Motor
- Tax Audit

### LIABILITY

- Public Liability
- Products Liability
- Professional Indemnity
- Directors and Officers
- Employment Practices Liability

### PRIVATE AND DOMESTIC INSURANCE

- Home and Contents
- Car, Caravan, Boat and Trailer
- Travel

### INCOME PROTECTION INSURANCE

- Long Term Disability
- Sickness and Accident

### LIFE, SUPERANNUATION, PARTNERSHIP

- Mortgage Protection
- Key Man
- Term Life
- Superannuation

The CQIB represents over 60 Queensland firms employing nearly 400 staff and placing in excess of \$500,000,000 in annual premiums. The CQIB charter is to maintain the level of professionalism of its members by the sharing of knowledge, information and ideas.



For more information visit [www.cqib.org.au](http://www.cqib.org.au)

This publication is a general summary only and should not be relied on as a substitute for insurance broking advice.

# Wise.words

It's never too late to be who you might have been.

— George Eliot

"When you encounter seemingly good advice that contradicts other seemingly good advice, ignore them both."

— Al Franken

"What's money? A man is a success if he gets up in the morning and goes to bed at night and in between does what he wants to do."

— Bob Dylan

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