New PrivateEdge overview movie summary

New PrivateEdge

Sales Narratives

Feel free to adapt, cut and paste any of this copy into your own marketing communications

New PrivateEdge, our D&O liability package for private companies, partnerships and “not-for-profits” has been upgraded to deliver even better protection. Here are 8 reasons to recommend it to your clients:

1. We’ve added new covers including, “Any One Claim” limits for all sections and much wider protection for the company including Health and Safety investigations costs, fees for intervention and the company costs of defending prosecutions from any regulatory body.
2. New PrivateEdge includes free legal advice from 3 of the UK’s top legal firms with a 24 hotline followed by scheduled call-back with a specialist lawyer in the exact area that your client is concerned about.
3. We’ve got one of the industry’s most experienced D&O claims teams settling thousands of D&O claims every year. This app outlines some of the most common types - all covered by new PrivateEdge.
4. A D&O claim is a daunting experience and having such an experienced claims team in their corner to guide and reassure your clients is essential – this app outlines some of the typical “pain points” we’re used to managing.
5. New PrivateEdge is especially powerful for penetrating businesses who don’t currently buy D&O insurance – have a look at the objection handling module
6. You can tailor New PrivateEdge to your clients’ needs by adding optional modules: Employment Practices Liability, Pension Trustee and Employee Benefits Liability and Crime
7. New PrivateEdge includes a free Credit Management system so your clients can analyse all of their customers’ outstanding payments: see who is performing well, where there might be danger signals, and if they wish purchase trade credit insurance for individual customers.
8. We’ve made New PrivateEdge as easy as possible for brokers to purchase, online via AIG Extra, over the phone via our service desk, you can even request a quick quote from this app.

Thanks for listening and for a range of tools, including claims examples, a client podcast and marketing material to help you sell New PrivateEdge, have a look through this app.

PrivateEdge Sales Themes

KEY SALES THEMES: NEW COVERS

**NEW COVERS MOVIE SUMMARY**

New PrivateEdge has got some significant cover improvements, especially in terms of strengthening the company’s protection against investigations and prosecutions, here are some of the headlines:

1. New PrivateEdge now covers the company’s legal and professional costs during a health and safety investigation. Not only that, new PrivateEdge also covers the Health and Safety Executive’s “fees for intervention” which are growing rapidly with the HSE invoicing UK businesses over £2m a month.

These enhancements mean that new PrivateEdge gives individuals and companies “end-to-end” coverage for HSE investigations and prosecutions. Have a look at the tutorial in this app “from inspection to prosecution” that simplifies the different stages and the cover provided.

1. New PrivateEdge now covers the company against prosecutions by any regulatory body - whether it’s the HMRC in relation to tax treatments, the ICU in relation to corruption or a host of trade specific professional bodies.
2. We’ve expanded our Crime Cover in New PrivateEdge to include “Social Engineering” cover for when staff at any level in the company are deceived and manipulated into parting with company funds.
3. New PrivateEdge policy limits are now on an “Any One Claim” basis for every single module whether its D&O, Employment Practice Liability, Crime or Employee Benefits Liability.

These new highlights just scratch the surface of how new PrivateEdge can help businesses - and this app summarises many more coverages, claims scenarios and free services to help your conversations – not just with existing clients but also with those who don’t currently purchase D&O insurance.

**NEW COVERAGE: END-TO-END HEALTH AND SAFETY**

New PrivateEdge now provides “end-to-end” Health and Safety protection for individuals and for the company itself.

Health and safety inspections

The HSE and Local Authorities inspect thousands of businesses a year and can enter any workplace without notice to look around, talk to staff, take photos etc. They can target high risk sectors and also do random spot checks. If inspectors find a “material breach” of Health and Safety law they take formal action.

Material breaches

Examples of material breaches might include inadequate staff training for protective equipment, inadequate noise protection, poor maintenance of ladders and scaffolding and if the inspector thinks it’s serious it will be put in it in writing via Improvement Notices, Prohibition Notices or prosecution.

Fees for intervention

Once the breach has been put in writing the HSE can (and do) charge the business a “Fee for Intervention” these are steadily increasing with around 3,000 companies being invoiced a month and costs can run into the thousands - which are covered by new PrivateEdge.

Investigations

If there has been an accident or injury in the workplace the HSE and Local Authorities also conduct formal investigations. New PrivateEdge covers the costs of legal and professional representation for these investigations - for any individual employed by the company or for the company itself

Prosecutions

If an inspection, or a failure to comply with a notice or an investigation leads to a prosecution, then new PrivateEdge covers the individual’s or the company’s professional and legal costs of preparing and conducting a defence. Note the HSE routinely consider disqualifications for directors after a successful prosecution.

**NEW COVERAGE: COMPANY PROSECUTIONS**

New PrivateEdge now covers the Company’s costs of defending any claim against it seeking fines and penalties

A host of potential actions

This is a significant broadening of coverage under new PrivateEdge because it includes potential actions from a host of regulators for example:

* Competitions and Markets Authority (eg competition law, cartels, price fixing, bid-rigging)
* Environment Agency (eg contamination, waste management, water and coastal, conservation)
* Trading Standards (eg consumer safety, counterfeit goods, labelling, weights and measures)
* HMRC (tax compliance)
* ICO (data, communications and privacy legislation)
* SFO (serious and complex fraud)
* ICU (money laundering, bribery)
* BIS (insolvency and company law)
* Companies House (directors’ fiduciary and statuary duties)
* Financial Conduct Authority (marketing of financial products)
* Care Quality Commission (health and social services)
* Advertising Standards Authority (print, online and social media advertising)
* Planning Inspectorate (planning appeals, infrastructure applications)

..and a myriad of professional bodies.

**NEW COVERAGE: SOCIAL ENGINEERING**

New PrivateEdge Crime Module explicitly covers “social engineering” fraud one of the world’s “emerging fraud trends” (BBC 1 Jan 2016) including:

CEO/Manager fraud

Fraudsters research the names of senior company executives via publicly available information and then impersonate them via false email addresses to coerce employees into making urgent high value cash transfers

Hacking of e-mail accounts

Fraudsters hacks into an individual’s e-mail account send messages to colleagues for account or password information. The recipient is unaware that the e-mail is not from the person they know, making them more inclined to assist

Phishing and baiting scenarios

Fraudsters send Emails to employees from apparently legitimate companies and institutions requesting “verification” of sensitive company information, possibly accompanies by warnings of non-compliance.

Response to fictitious questions

Fraudsters may pretend to be responding to a request for help and support (to a computer system for instance) that was never made. Employees may assume the contact to be genuine and may provide sensitive security data , logons, passwords etc.

Bogus rebates and credits

Fraudsters may masquerade as a supplier with a notification from their “accounts department” that a large financial overpayment has been made, and confidential bank and authorisation details are requested so that the monies can be transferred.

**NEW COVERAGE: AOC LIMITS FOR ALL MODULES**

New PrivateEdge limits are now on an “Any One Claim” basis for all modules

Aggregate limits

Some policies may be written on an “aggregate” limit of liability basis where the total amount of cover for claims made in the same year are capped at a pre-agreed amount. This may be problematic if a client has two or more large claims in a single year on a policy as there may be a risk of the policy limit being eroded leaving insufficient coverage for the period.

“Any one claim” limits across the policy

New PrivateEdge provides cover on an “Any One Claim” basis for every cover module that your clients select: D&O, Corporate Legal Liability, Employment Practices Liability, Employee Benefit Plan Liability and Crime. This means that even if your client has multiple claims in the same year, each one is covered by its own separate limit.

KEY SALES THEMES: TOP D&O CLAIMS

With one of the industry’s most experience D&O claims teams we handle a lot of D&O claims. Here are 8 of the most common and impactful types we see throughout the year

**WORKPLACE INJURIES**

Workplace injuries (employees, visitors, suppliers, customers) are a major cause of D&O claims. HSE inspectors have great powers conducting post-accident investigations. They can interview whoever they wish and remove whatever evidence they see fit (eg PCs, records etc). Expert legal and professional representation for those involved in questioning and interviews is essential – and these costs are covered by new PrivateEdge.

The Health and Executive may well interview more than one person and each one may need their own separate legal representation so costs can multiply

**BUSINESS INSOLVENCIES**

Business insolvencies are another potentially expensive source of D&O claims. The company’s transactions and the actions of individual directors prior to the business going insolvent will be scrutinised and the costs of expert preparation and representation can mount up. Damages to creditors which individuals may be ordered to pay after an insolvency can also eat well into the available policy limits.

It’s not unusual for a business insolvency to be followed by disqualification proceedings against individual directors which can add even time and cost to the D&O claim

**CRIMINAL ACTIONS**

D&O doesn’t cover deliberate fraudulent acts but does cover the defence of criminal allegations (and investigations leading up to them) which can be extremely expensive. SFO cases are especially so as cases are usually very detailed prepared over a long period and need a great deal of time and expense to examine documentation and defend with costs escalating for example for instructing solicitor, junior counsel, senior counsel and expert witnesses.

A feature of criminal cases is that defendants, or groups of defendants, are often “conflicted” pointing fingers at each other which means they require separate legal counsel.

**DEFAMATION CASES**

Defamation actions against our policyholders may be relatively small scale in terms of the financial amounts compared to criminal actions but we see several of them. These cases are often bitterly pursued by the individuals or companies who can feel very aggrieved by comments that have allegedly been made or actions allegedly taken against them. They need to be handled very quickly and very sensitively to avoid escalation.

One area of potential concern for defamation cases is the unguarded use of emails and increasingly Facebook and Twitter and other Social Media platforms

**INSURED VERSES INSURED**

Although some corporate clients are surprised to learn it, the origins of D&O are to protect individual directors and sometimes this means defending individual directors against allegations they face from their own companies or shareholders. Needless to say these cases can be extremely acrimonious on both sides – and reinforce the need for expert representation and advice which new PrivateEdge is there to pay for.

“I v I” claims may be complicated by counter claims, and we know instances where two claims in “different directions” are running concurrently between the same parties and great care has to be taken with regard to completely separate claims handling procedures

**CONTRACT DISPUTES**

Disputes with suppliers and customers are sub-limited under the policy (usually to £100,000) but we see several of them often around non-fulfilment of contracts (for instance companies going insolvent and being unable to meet manufacturing or delivery commitments) to customers, or sometimes termination of contracts before the contractual period because of performance issues. New PrivateEdge funds the client’s reasonable defence costs in these situations.

Although new PrivateEdge funds the costs of defending contract disputes with suppliers and customers, it does not cover the delivery of professional services which are explicitly excluded and covered under a Professional indemnity policy

**INVESTIGATIONS AGAINST INDIVIDUALS**

Investigations by regulators against individuals remains a consistent and costly source of D&O claims. The new PrivateEdge wording is very broad in this respect. It provides full policy limit cover for the professional and legal fees, expenses and costs for individuals to respond to any request for a meeting or for information from any regulator or trade body.

Investigations by official regulators and professional associations may well be full blown legal affairs requiring the costs of expert legal preparation and representation

**PRIVACY AND DATA BREACHES**

Privacy and data protection laws are an emerging area in the UK – with courts starting to award substantial amounts of compensation for breaches. In particular, we have seen several disputes that have escalated into D&O claims when management have accessed personal e-mails and messages through an employee’s work phone or computer.

Looking forward, the increased blurring between work and personal devices is likely to create growing risk in this area – with a mixture of company data being stored on personal devices and personal data being stored on company devices. A company, or its management, is likely to need expert legal input to steer them through any claims they receive on this front.

KEY SALES THEMES: HIDDEN D&O DANGERS

A D&O claim can be a difficult experience for clients, but not for us because we’ve seen them all before. We’re there to guide and reassure clients, with our claims expertise and the financial resources provided by new PrivateEdge. Here are some of the client pain-points we’re used to dealing with.

**HUGE FINANCIAL AMOUNTS**

Sometimes claimants’ solicitors can take a “scattergun approach” to naming people in proceedings. This can be a shock to managers and supervisors especially as some of the financial amounts claimed and defence costs can be very high (sometimes six figures). New PrivateEdge provides the resources to instruct an expert law firm to defend and guide them that may not otherwise have been affordable.

**CLAIMS PURSUING INTO RETIREMENT**

Years can pass between something a director might have done and a legal response – often 6 years but sometimes more such as fraud, latent defects or acts committed overseas and actions can follow directors into retirement. New PrivateEdge covers retired directors throughout their lifetime for their actions while they were at work even if their former employers do not renew their PrivateEdge policy.

**PERSONAL LIABILITIES**

Even Directors of Limited Liability Companies can be personally liable for corporate debts. eg the actions of directors are scrutinised after an insolvency and if it’s held that directors traded to the detriment of creditors they can be personally liable for the debts. New PrivateEdge won’t cover fraud but does cover directors defence costs and damages to creditors in these situations.

**INTIMIDATING ENVIRONMENTS**

Investigations and court proceedings can be very intimidating affairs for directors and it’s essential they are thoroughly prepared. Mock interviews can help directors rehearse and bring out the most important points in their defence – as well as preparing them for being questioned by tough regulators (and hearing their rights read to them for example) which is funded by new PrivateEdge.

**TREAD CAREFULLY**

Being a good director isn’t the same as being a good defendant. Many are strong-willed individuals who want to proactively shape and improve situations, but in an “inquisitorial” environment they must tread carefully with expert guidance, particularly when facing difficult allegations by skilled investigators or prosecutors - which is funded by new PrivateEdge

**A LONG CHALLENGING ROAD**

Claims can go on for a long time – years for regulatory claims and SFO proceedings. This can be very stressful for directors who are the subjects of the proceedings, and very expensive which is why it is so important to have D&O insurance in place to stand by them, to help them through. The lawyers are there to do the best for directors in this position – and the policy is there to pay for those lawyers.

**A SAFETY NET**

New PrivateEdge provides a fighting fund to provide expert advice and defence for claims where there is an enormous amount at stake (even loss of liberty). It helps claims to be challenged effectively with high quality professional support. We can’t stop directors being sued, but we can provide an essential safety net for those trying to carry out their jobs in the best way possible.

**A BAD REP**

One consequence of a D&O claim which according to our research really worries SMEs in the PR fallout and reputational damage it can cause with employees, suppliers, customers and peers. New PrivateEdge not only covers the costs to prevent or mitigate a claim but also the costs of Public Relations specialists to minimise the negative publicity from a claim.

**UNFOUNDED ALLEGATIONS**

Finally, just because an accusation against one of our clients is untrue, it still has to be vigorously defended. We know that mischievous or even malicious actions can be intensely stressful and time consuming for the individuals involved and it can be a great reassurance to a director knowing that he or she has the biggest and the best in their corner fighting for them.

KEY SALES THEMES: TIPS FOR FIRST TIME BUYERS

New PrivateEdge is ideal not just for mid-range and larger private companies but for smaller ones as well – many of whom may not currently purchase D&O insurance. Here are some common objections – and responses to overcome them.

**WE ARE TOO SMALL TO WORRY ABOUT D&O**

Smaller companies may have less resources to support directors’ decision making process and pay for their defence and representation costs if things go wrong. There may be little risk management infrastructure (such in-house legal and compliance teams). While for a small company a D&O claim against one of its Directors can be huge distraction from the day to day running of business.

**WE ARE A FAMILY RUN BUSINESS**

In fact we see family businesses as relatively high risk with potential factors such as family sibling rivalries, divorce and bankruptcy. Family businesses are not immune to claims from regulators, suppliers, competitors, creditors or unfounded & mischievous allegations. The added value services of free legal advice and the suite of free HR documents and procedures can be especially useful.

**WE’VE VERY LOYAL CUSTOMERS AND STAFF, SO CAN’T SEE ANY CLAIMS COMING**

This may be the case but what about claims from regulators, investors, competitors, shareholders. What will be the impact on prospective senior employees if you don’t carry D&O insurance? What about the risk of insolvency and the possible personal liabilities and what about future changes as your senior leaders retire with no management liability protection?

**WE HAVE LEGAL EXPENSES INSURANCE**

Legal expenses policies are not suitable substitutes for D&O policies. They often contain “Prospect of Success” clauses. The limits are tiny in comparison with D&O and would be inadequate for any kind of protracted litigation, often with very small sub limits. They often exclude disputes in arising in first 90 or 180 days of inception the policy and they usually prescribe the solicitor to be used.

**WE HAVE VERY ROBUST HEALTH AND SAFETY, HR AND MANAGEMENT IN PLACE**

Robust practices certainly help assist with the result of the claim but do not prevent the claim being made in the first place. Employment claims are just one of the many exposures that companies and their directors face – such as regulatory enquiries, creditors actions, insolvency risks and liquidators, official and trade bodies and shareholders. This app contains many more examples.

KEY SALES THEMES: UPSELLING D&O

New PrivateEdge is a “modular” product at its heart lies D&O but it can be customised for your clients with optional Employment Practices Liability, Pension Trustee and Employee Benefit Plan Liability and Crime covers.

**EMPLOYMENT PRACTICES LIABILITY**

New PrivateEdge’s Employment Practice Liability module covers damages, settlements and defence costs for a wide range of employment practice violations. We cover claims from employees past and present, from visitors like customers or suppliers and we cover the costs of employment investigations (like equal opportunities or racial equality).

**PENSION TRUSTEE AND EMPLOYEE BENEFIT PLAN LIABILITY**

We’ve broadened our Pension Trustee Liability so it doesn’t just cover pension trustees but also any past or present company employee benefit or welfare plan. We know that regulators demand a rapid response and one cover highlight is the emergency defence costs so that companies and trustees can get the legal assistance to respond immediately to the regulator, even if they can’t contact us first.

**CRIME**

Our optional crime module protects the client’s balance sheet from fraudulent or dishonest activities carried out by employees or outside third parties, or collusion between internal staff and external parties such as suppliers. Cover includes the costs of specialist pre-investigative services to help clients establish and quantify their loss.

KEY SALES THEMES: LEGAL AND HR SUPPORT

All PrivateEdge policyholders are entitled to free telephone legal advice from a top 50 UK law firm (Bond Dickinson, Kennedys and Mills & Reeve) on any issue that they feel might potentially lead to a claim under their PrivateEdge policy.

**ANY POTENTIAL ISSUE**

Our new PrivateEdge legal panel members are all top 50 law firms and will provide free, confidential telephone best legal advice on any issue that your PrivateEdge clients think may lead to a claim under their policy. The scope of the service is as wide as the new PrivateEdge cover, from contract disputes to trade, professional or regulatory inquiries, see the above conveyor for examples.

**PROCESS**

To use the service New PrivateEdge clients call the 24-hour legal helpline number, and provide some basic information to identify their policy details and the nature of the of the query. This enables us to assign the right lawyer with expertise in exactly the right field of law to give your client the best advise possible. A call back time will be agreed (usually within 3 hours during normal working hours).

**EMERGENCIES**

For genuine regulatory and health and safety emergencies we provide a 24/7 call-back within 1 hour.

**FROM ENQUIRY TO SETTLEMENT**

If during a discussion our panel lawyers believe a claim on the policy is imminent, then they do have authority to negotiate and settle some claims directly on clients’ behalf if clients so wish. This seamless service from enquiry to settlement minimises disruption for clients and guarantees them expert professional representation. We’ll also waive any policy excess under these circumstances.

**DISCOUNTED LEGAL SERVICES**

With such deep understanding of specific industries, our panel firms can also provide a full suite of expert legal services well beyond the scope of clients’ D&O coverage. If they wish to engage any of our panel members in this way then PrivateEdge policyholders are entitled to exclusive discounted rates.

**WEBSITE AND BULLETINS**

The legal helpline is backed up by a comprehensive library on the new PrivateEdge website of guides and templates on a wealth of HR and Health and safety issues identified as being most valuable to businesses. From “A Guide to using Probationary Periods” to “What to do When a HSE Inspector calls” as well as regular bi-weekly bulletins on topical and emerging issues.

KEY SALES THEMES: FREE CREDIT SYSTEM

New PrivateEdge policyholders are entitled to a free credit management system “AIG Trade+” to give them greater visibility of their receivables portfolio and their individual customer’s credit risk

**A GRANULAR VIEW**

The system is fed by a regular weekly upload of the clients invoice data. It is a simple user-friendly “drag and drop” process, and after the first upload the software remembers the client’s system, details and columns for subsequent uploads. The information at individual invoice level gives a powerful granular view of individual buyer’s and the overall portfolios’ credit performance.

**INTUITIVE DASHBOADS**

The system’s dashboards are easy and intuitive to interpret, clearly displaying the amounts and the age of debt, so clients can view historical trends within their overall portfolio and at buyer level. The dashboards also profile the client’s ledger showing average terms, average days beyond terms, average invoice to cash timescales and issues visible alerts for buyers who owe past due payments.

**RECOMMENDED LIMITS**

By capturing a regular feed of all buyers’ invoice and payment the system calculates recommended credit limits for each of the client’s individual buyers. This means that clients can not only see who they are trading with and how, but also means they can assess where they are overtrading with certain clients and where there is headroom to increase trading.

**OPTIONAL TRADE CREDIT INSURANCE**

If clients wish they can use the system to request an immediate quotation for trade credit insurance for any of their buyers. Clients already know the available credit limit we are prepared to provide for each of their buyers as that is clearly displayed on the dashboard.

Target market

PrivateEdge is designed for a very wide market:

**PRIVATELY OWNED COMPANIES** in all industrial sectors (from manufacturers to service companies) with turnovers from £1m up to £250m

**ALL TYPES OF PARTNERSHIPS** including Limited Liability Partnerships, Limited Partnerships and General Partnerships with turnovers from £1m up to £250m

**NOT FOR PROFITS:** All Not-for-Profit entities including charities and associations

Cover at a glance (High level summary only see policy wording for details)

**D&O COVER FOR INDIVIDUALS**

* “Any One Claim Limit” for all policy modules
* Investigations and preclaim inquiry costs for individuals
* Civil fines and penalties
* Personal Liabilities for Corporate taxes
* Lifetime Run Off cover for retired or resigned individuals
* Mitigation costs
* Assets and liability cover including extradition
* Emergency costs
* Affirmative insolvency hearing cover
* Affirmative Corporate manslaughter cover
* Reputation expenses

**ENTITY COVER**

* Corporate wrongful acts
* Health and safety investigation and proceedings costs
* Corporate Manslaughter costs
* Company Regulatory Crisis Response
* Defence costs for bodily injury and property damage claims
* Defence costs for Pollution claims
* Defence costs for breach of contract claims
* Defence costs for any claim seeking fines and penalties against the company
* Crisis Event Public Relations Expenses
* Identity fraud

**CRIME (OPTIONAL MODULE)**

* Cover for fraud or dishonesty committed by an employee
* Cover fraudulent acts committed by any other person
* Care custody and control cover
* Fees, costs and expenses to defend a claim resulting directly from a covered financial loss
* Fees, costs and expense of an Investigative Specialist
* Damage Destruction or Disappearance of Money or Securities
* Impersonation Fraud
* Fund Transfer Fraud
* Worldwide cover
* Any single claim basis of cover

**EMPLOYMENT PRACTICES LIABILITY (OPTIONAL MODULE)**

* Wide definitions of employee and employment practices violation
* Third Party Violation cover – harassment or unlawful discrimination of a third party
* Employment Practice or Third Party Violation committed by employee using internet
* Worldwide cover
* Retention waiver if legal panel member is engaged by client
* Any single claim basis of cover

**PENSION TRUSTEE AND EMPLOYMENT BENEFIT PLAN LIABILITY (OPTIONAL)**

* Cover for the Insured Person, Company, Plan and Corporate Trustee
* Any past or present Employee Benefit or Welfare benefit plan established by Company
* Any past or present Pension Plan established for Company employees
* Contribution Notice Cover
* Civil fines & Penalties
* Pensions Ombudsman’s cover
* Third Party Pursuit cover
* Loss of documents cover
* Corporate Professional Trustees Extension
* Lifetime run off for Retired or Resigned Trustees
* Any single claim basis of cover

Claims examples

As the world’s number 1 D&O insurer we handle thousands of a claims each year – here are just a few examples based on actual events (with any identifying details changed) to illustrate potential exposures

D&O AND ENTITY EXAMPLES

BREACH OF CONTRACT

 Our insured catering company was sued by one of its customers, after the customer alleged that the insured had supplied contaminated meat products. The claim was for over £1,000,000. We assisted the insured in finding expert solicitors to defend the claim and subsequently paid the solicitors’ costs. An amicable commercial settlement was ultimately reached, with the insured paying a fraction of the sum claimed.

UNFAIR TREATMENT OF SHAREHOLDERS

 A minority shareholder sued the company’s directors claiming directors had taken decisions which had unfairly prejudiced his position. Due to conflicts of interest we set each director up with separate legal representation and the claim was ultimately settled by the company purchasing the disputed shareholding from the shareholder. By the time the matter settled, we had paid out six figure sums in relation to the defence costs for the directors in question.

INSOLVENCY AND DISQUALIFICATION

 After a company went into liquidation, the liquidator revisited transactions approved by the directors, decided they should not have taken place, indicated an intention to sue the directors for a return of the monies involved and investigate disqualification proceedings. We paid to defend the directors (involving substantial legal and experts’ costs) and the claims were subsequently dropped.

ENVIRONMENTAL PROSECUTION

Under the Environmental Protection Act, directors are liable for prosecution if their business is suspected of pollution damage. In one case we defended, charges against a director went ahead – even though the company had confirmed their tanks did not even hold the contaminant identified in an adjacent stream.

FIRE SAFETY REGULATIONS

Directors were prosecuted by the local authority after persistently failing to comply with fire regulations. They claimed that the work required to their premises by the local authority was

unnecessary. We defended the directors and eventually an acceptable solution was reached – defence costs were 5 figures.

HEALTH & SAFETY

 A company and a senior manager both faced prosecution as a result of a fatality at a site operated by the company. We paid to defend both the manager and the company. The defence costs for each of them exceeded six figure sums. After negotiation with the HSE, the company pleaded guilty to a more minor charge and the manager was exonerated. We also paid the prosecution costs, together with HSE’s fees for intervention.

EMPLOYMENT PRACTICES EXAMPLES (OPTIONAL MODULE)

BREACH OF CONTRACT

The claimant alleged her employer was breaching her contract of employment by changing the job role without consultation as the claimant had previously agreed the job role at the beginning of the year which was convenient for child care arrangements. The claimant could not resolve the issue and resigned. A claim was filed in the tribunal for Breach of Contract and Constructive Dismissal.

AGE AND DISABILITY DISCRIMINATION

A claimant applied unsuccessfully for a position and sought feedback as to why. He was advised he did have the required experience. The claimant provided evidence to the contrary but the employer did not respond. The claimant had declared a mental health disability and alleged that rejection of application was directly related to this disability as well as age and a tribunal claim was made for both employment violations.

WHISTLEBLOWING

A claimant worked for a pharmaceutical company and discovered that drugs were being used on patients under the age of 18 although they were produced for adults to trial only. The claimant raised the issue with management. No action was taken, but the claimant’s employment was subsequently terminated for performance issues but alleged this was due to whistleblowing. A claim was made in tribunal for unfair dismissal and whistleblowing.

UNFAIR DISMISSAL

An employee is dismissed for non-attendance even though her employer knows she is pregnant. Her employers claim that the manager who dismissed her was not aware of her pregnancy – although the company fails to reverse its decision when the employee produces confirmation from her G.P. The case is settled for a 5 figure sum.

DISCRIMINATION

An employee complains of being asked to form an unacceptably close relationship with a client. The employee claims that once they refused, they were dismissed. The case is settled for a 5 figure sum.

MISCONDUCT

An employee is dismissed after sending a stream of offensive emails to colleagues about one of his senior managers. However the employer failed to follow proper process in dismissing the

employee and the case was settled for a 5 figure sum.

DISCRIMINATION

A female employee is made redundant, she complains she was belittled by her line manager who constantly belittled and insulted her in front of colleagues with cutting remarks and insulting comments. The case is settled for a 4 figure sum.

CONSTRUCTIVE DISMISSAL

A manager claimed he was forced to resign after being poorly treated by his employer. He claimed he was shouted at by directors, that his management capabilities and confidence were undermined in front of staff and that problems he escalated were ignored. The claim was successfully defended with 5 figure legal costs.

CRIME EXAMPLES (OPTIONAL MODULE)

FRAUD BY A LONE EMPLOYEE

An employee who processes invoices also has access to the new supplier banking system. The employee sees that when invoices are approved for payment, the financial controller examines the largest payment in detail and then signs the rest. The employee creates a false supplier and makes many small payments totalling thousands of pounds over several months.

FRAUD BY A LONE EMPLOYEE

A credit controller who collects late rents on behalf of a client landlord realises that she is the only contact between the bailiff and the client. The employee siphons off some of the rent collected and makes some of the repayment to her bank account instead of the client’s. The employee makes payments to herself for over 3 years and steals over GBP 70,000.

FRAUD BY AN EMPLOYEE COLLUDING WITH CUSTOMERS

An employee’s role includes negotiating discounts with clients up to 20%. The employee approaches his closest clients and agrees that their current discounts of 5% can be increased to 20% on the understanding that the additional discount is split between the client and the employee.

FRAUD BY COLLUSION WITH SUPPLIER

A trusted employee has authority to select suppliers for the company. He channels a large proportion of projects to one particular supplier in return for regular cash payments of several hundred pounds each month. The fraud is only discovered after 4 years and an anonymous tip off.

FRAUDULENT REQUEST TO AMEND SUPPLIER’S DETAILS

The company receives a letter from a known supplier asking it to amend the bank details on record and pay any future invoices to the new bank account. The letter is in fact a forgery but the employee goes against company procedure and fails to verify the authenticity of the letter with the supplier. The bank details are changed and the next invoice received is paid to the incorrect bank account.

SOCIAL ENGINEERING FRAUD

An employee receives a call from a fraudster purporting to be from the bank. The fraudster requests memorable information to confirm he is talking to a genuine employee. This conversation is then repeated with a different employee who has payment authority and the memorable information for both employees is used to log in to the business’ account and authorise fraudulent payments over £1m.

PENSION TRUSTEE AND EMPLOYEE BENEFIT PLAN LIABILITY EXAMPLES

CLAIM BY EMPLOYER AGAINST SCHEME TRUSTEES

A scheme employer claimed that trustees caused a substantial fall in the scheme value by choosing an inadequately qualified investment adviser. The trustees were covered for damages (including losses to the scheme), third party settlement and defence costs.  They received expert legal advice and put forward a robust defence including points on limitation, lack of documentation in support of the claim and failure to show a clear breach of trustees’ duties.

CLAIM BY EMPLOYEES AGAINST THE SCHEME TRUSTEES

Trustees face claims from a number of employees, because their enhanced pensions lifetime allowance protection has become invalidated – allegedly due to the actions of the trustees, resulting in potentially greater tax liabilities. Trustees’ defence and investigation costs covered as well as any damages  established by the employees together with any claim for the employees’ legal costs.

CLAIM BY A DISAPPOINTED BENEFICIARY AGAINST THE SCHEME TRUSTEES

An employee was absent from work on disability, when the company he worked for was sold and the pension scheme transferred to the new company.  Because of his absence he was not deemed to not be an active employee and not entitled to any scheme benefits - despite having submitted all relevant paperwork and receiving acknowledgments. His family sued the scheme trustees, whose defence costs, damages and costs payable to the family are covered.

PrivateEdge podcast for clients

The world of business is changing, and we’ve updated our Directors & Officers liability package for small and medium-sized companies – PrivateEdge – in line with the changing risk environment.

We’ve added some significant cover improvements, including in our optional modules, which I’ll go into in a minute. First though, let’s talk about the heart of New PrivateEdge: the D&O protection it provides. This is extensive, covering a wide range of risks that individual directors and officers face in businesses of all sizes. It also protects the business itself.

For example, Health and Safety inspections can cause headaches for individuals and businesses, and we address this in the round, with New PrivateEdge. Imagine inspectors turn up unexpectedly and find a “material breach” of Health and Safety law – for example poor maintenance of equipment. Costs can soon spiral, as formal investigations take place and even prosecutions.

New PrivateEdge covers all these expenses. In fact, this policy covers the costs of defending **any** claim against a company that seeks fines and penalties. When you think about it, potential actions can come from a host of regulators: Trading Standards, the Environment Agency, HMRC, the Serious Fraud Office, and many more.

In one case we defended, a director was charged for pollution damage, even though his company had confirmed its tanks didn’t even hold the contaminant found in a nearby stream. We supported them through that ordeal.

This coverage of defence costs provides enormous peace of mind to our policy holders – and of course, it goes way beyond clashes with regulators. Personal injury claims often require legal representation, as do insolvency issues and criminal allegations. As one of the leading D&O insurers, we see cases like these all the time, as well as contract disputes, defamation suits and much more besides.

The extent to which individuals can be pursued through the courts is a shock to some of our clients. Directors and officers can be named personally and sued for eye-watering amounts, even after they’ve retired. They can also be held liable for corporate debts. New PrivateEdge covers directors’ defence costs and damages to creditors in these situations.

Now you may be thinking that none of these problems will ever come your way –that your business is too small to worry about D&O insurance, that your customers and staff are too loyal to cause problems. Or you may think that your legal expenses insurance would do the same job as D&O. Unfortunately, we’ve found that no company is too small to benefit from this kind of cover – and the limits on legal expenses policies are tiny compared to what you’d need to sustain a long lawsuit.

With New PrivateEdge, you don’t just get your defence costs covered. Every policy provides access to public relations specialists, who can minimise negative publicity around a legal action. You’ll also get communications support as you prepare to testify before regulators or prosecutors.

In addition, all PrivateEdge policyholders have access to free, confidential legal advice by phone, 24 hours a day. You’ll get through to a leading UK law firm, and can ask about any issue you think might potentially lead to a claim under your PrivateEdge policy.

You’ll also be given free use of our credit management system, AIG Trade+, which provides a clear view of your receivables portfolio and the individual credit risk of each of your customers.

I mentioned earlier that New PrivateEdge comes with some optional modules, in addition to the core offering of D&O cover. One of these is the crime module. This protects the client’s balance sheet from fraudulent or dishonest activities by employees or external contacts, and covers the cost of investigation too.

In one claim we handled, an employee had the job of selecting suppliers for his company. He channelled a large proportion of projects to one particular supplier in return for regular cash payments of several hundreds of pounds each month. The fraud came to light after four years, and the costs were covered by PrivateEdge.

We’ve recently added social engineering to this crime module, after recognising it as a growing menace. Social engineering can take many forms. Sometimes fraudsters pose as managers, so they can coerce employees into making cash transfers. Sometimes they take over employees’ or suppliers’ email accounts, to extract money or password information. Losses from these and other social engineering crimes are now covered by New PrivateEdge.

The other optional modules concern employment practices liability and pension trustee and employee benefit plan liability. These cover damages, settlements and defence costs for a wide range of violations in these areas.

In one example from our archives, a female employee who was made redundant complained she was belittled by her line manager and insulted in front of her colleagues. The case was settled for a four figure sum, which PrivateEdge covered.

Finally, with this new version of PrivateEdge, all our limits are set on an “any one claim” basis for all modules. This means your claims don’t add up and risk exceeding your annual limit. Instead, you can make multiple claims in the same year and each one is covered by its own separate limit.

All this adds up to a powerful, flexible, and wide-ranging D&O package for small and medium-sized companies. Find out more at AIG.com.

\*