

# DIRECTORS' AND OFFICERS' LIABILITY SCORECARD



Claims against directors and officers are becoming increasingly common. Your business and its directors and officers could be sued by customers, current or former employees, competitors, regulators, creditors, suppliers or even investors. What's more, this can happen even if your company is not a large, publicly traded organisation.

The cost of defending directors and officers (D&O) claims can run well into the six figures, leaving a business financially crippled. Even worse, your directors and officers put everything they have on the line, because in the event of a D&O liability claim, even their personal assets may be at risk. As a result, D&O liability insurance has become an essential component of most businesses' insurance portfolios.

To help businesses better understand the level of risk their directors and officers face, Robison & Co Ltd has developed this Directors' and Officers' Liability Scorecard.

**Instructions:** Please note that each section will have its own instructions related to scoring. Please review them carefully. After you have completed all of the sections to the best of your ability, add up your score and determine your level of risk by utilising the chart at the end of this document.

**SECTION INSTRUCTIONS:** The following points will be assigned for each response:  
**- YES:** 4 points                      **- NO:** 0 points                      **- UNSURE:** 4 points

Business Operations and History	YES	NO	UNSURE	SCORE
1. At any point in the past five years, has your business experienced any changes to its senior management?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. At any point in the past five years, has control of your business changed hands or been offered for sale?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. At any point in the past five years, has your business accepted outside investments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. At any point in the past five years, has your business filed for bankruptcy or breached any of its debt covenants, loan agreements or contractual obligations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. At any point in the past five years, has your business or one of its directors, officers or employees been involved in a labour- or employment-related dispute or been accused of harassment or discrimination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. At any point in the past five years, have any competitors, current or former employees, customers, suppliers, contractors or other third parties brought legal action against your business for alleged wrongdoing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. At any point in the past five years, has your business made lay-offs or reduced staff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. At any point in the last five years, has your business been involved in any proposed or completed mergers, acquisitions or divestitures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. At any point in the past five years, has your business made a substantial change to its operations or sources of revenue?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. At any point in the past five years, has your business hired an employee who had access to proprietary information, trade secrets or other forms of confidential business information at his or her previous job?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
11. At any point in the past five years, have any of your directors or officers made a material representation to potential investors, customers, contractors, suppliers or third parties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>SECTION SCORE:</b>				

**SECTION INSTRUCTIONS:** The following points will be assigned for each response:

- **YES:** 0 points

- **NO:** 4 points

- **UNSURE:** 4 points

Director and Officer Practices	YES	NO	UNSURE	SCORE
12. Has your business established formal procedures to inform directors and officers of new developments within the company?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
13. Has your business established a formal training process to ensure that directors and officers have a sound understanding of their duties, responsibilities and obligations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
14. Does your business' internal policies indemnify directors and officers to the fullest extent permitted under the applicable regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
15. Does your business require its directors and officers to report all potential conflicts of interest?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16. Does your business require its directors and officers to document and justify all major decisions?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
17. Does your business provide directors and officers with access to competent legal advice or legal opinion when they are faced with difficult decisions or when requested?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>SECTION SCORE:</b>				

**SECTION INSTRUCTIONS:** The following points will be assigned for each response:

- **YES:** 0 points

- **NO:** 4 points

- **UNSURE:** 4 points

HR Practices	YES	NO	UNSURE	SCORE
18. Does your business have an HR department?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19. Does your business have an employee handbook that has been reviewed by competent legal advice or legal opinion?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20. Does your business distribute a copy of your employee handbook to all employees, including those with managerial and supervisory responsibilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21. Does your business require all employees to acknowledge receipt of your employee handbook?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
22. Does your business have formal guidelines and written procedures to address compliance with the Equality Act, National Minimum Wage, the Pensions Act and any other applicable laws?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
23. Does your business have formal guidelines and written procedures for disciplining and terminating employees?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
24. Does your business have a formal process for addressing and resolving employee grievances?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
25. Does your business have a formal process for conducting employee evaluations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>SECTION SCORE:</b>				

**TOTAL SCORE:**

**MODERATE RISK:** 0-40 points

**HIGH RISK:** 44-64 points

**ESCALATED RISK:** 68-100 points