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Fire doesn't discriminate

Every year people die as a result of fires in the home. Statistics show the majority of house fires occur at night when people are asleep. Most are preventable.

In a fire, you may only have a few minutes from the sounding of the smoke alarm to when your life is seriously threatened by fire or smoke. It makes sense to prepare for the worst by practicing an escape plan, making sure that everyone knows what the smoke alarm sounds like, and that everyone in the household knows what to do in an emergency.

When you go to sleep, your sense of smell also goes to sleep. If there is a fire, toxic fumes may overcome you before you wake up. The piercing shriek of a smoke alarm can provide the seconds and minutes of valuable time you need to get out of the house during a fire. Think about...

- Installing an adequate number of suitable smoke alarms and testing them regularly.

- Having a written escape plan in case of a fire and practicing it.
- Never leave cooking or any other open flame including candles or oil burners unattended.
- Make sure keys to all locked doors are readily accessible in case you need to escape.
- Take extra care when using heaters, electric blankets or open fires.
- Oil, gas or wood heating units may require a yearly maintenance check.

All homes have different requirements so if you're not sure, look into the free Safehome service, a program whereby you can invite local firefighters to assist with your fire and home safety needs. This initiative is a free service provided by Queensland Fire & Rescue Service in the interest of developing a safer community.

Contact 13 74 68 for more details or visit the website.

Your home and everything you treasure deserves proper protection. In addition to having safety practices in place, be sure to speak to your insurance broker who can provide you with the right insurance solution for home and contents, ensuring your peace of mind.

<https://www.fire.qld.gov.au/communitysafety/freeprograms/safehome.asp> ■



Insurance: The Broker's Role...

BROKERS VERSUS SUPERMARKETS AND OTHER DIRECT VENDORS

There is a significant push on selling insurance products through mainstream retailers. Their foray into insurance is a calculated move that relies heavily on the established reputation of these retailers

to provide convenience and savings in commoditised household goods.

It's a tactic popular with banks as they design products that will try to cater for all financial needs of their customers, and thereby, keep them 'in house'.

So what's the difference between insurance brokers and the direct sellers?

Both earn a commission from the placement of cover with the insurer.

The product the client receives is only as good as the results when it's needed at the time of a claim. The role of the insurance broker is to provide professional, advice-based service that represents the client's best interests.

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The broker has a suite of product options available depending on clients' circumstances, cover requirements and affordability.

The direct market relies on promoting a cheaper product as the bottom line. This is heavily supported by mass media advertising that keeps the subject matter in their campaigns light on detail and high on entertainment value – think of domesticated aliens, man folding underwear at counter, French girl struggling with Aussie accent, happy customers portrayed by actors etc. The product is deliberately made cheaper by using strict acceptance criteria and restricting policy coverage and benefits.

A recent study by Vero Insurance surveyed business owners as to why they prefer to deal with a broker. A common theme in the feedback was that a broker would see many claim scenarios and may be able to suggest the most appropriate cover based on

previous experiences. This gave business owners more confidence rather than trying to understand the complexities themselves.

An important factor in any insurance buying decision should be how claims are settled. Brokers often recommend insurers based on their ability to provide excellent claims service. Insurance contracts and claim settlements can be complex and having professional guidance through the process is invaluable. Policy wordings often have limits, sub limits, conditions and exclusions that can potentially create situations where confusion reigns and the insurance industry is perceived as untrustworthy and deceitful.

The broker has the ability and responsibility to eliminate this confusion and provide the most suitable product for the clients' needs.

If price is ever the single most important criterion in the insurance buying decision,

then there can be benefits in using direct market insurers. However, always bear in mind that when price is optimised, the quality of cover usually suffers. Cheaper policies have strict acceptance criteria and the retailers' call centre consultants have scripts to follow. The highly regimented and efficient transaction process is designed to deal with the large volume of phone calls. Closing the deal is likely to be the number one priority. ■



ATO turn the spotlight on employee classification

The Australian Taxation Office (ATO) has stated their intention to increase their audit focus on businesses that use contractors.

An incorrect employment classification of an employee / contractor could be a breach of both ATO and Workers Compensation legislation.

If ATO determine that your contractors are employees, you would have a shortfall in your Superannuation and PAYG payments and subsequently incur interest and penalties. In theory ATO can go back an unlimited period to collect the superannuation and PAYG for employees.

In past years there was confusion for business owners about the definition of a worker as the ATO definition was different to WorkCover Queensland's definition.

Today the definitions have been aligned. WorkCover Queensland has adopted

the same definition as the ATO who supply a simple online decision tool to identify 'Employee or Contractor'.

You can check your circumstances by logging on to:

<http://www.ato.gov.au/Calculators-and-tools/Employee-or-contractor/>

You are asked to answer a series of questions

- Is there an Agreement in place with the individual
- Occupation of the individual
- Does the individual have an ABN
- Details of Subcontracting arrangements
- Basis of payment for services
- Responsibility for provision of equipment / tools

- Who is responsible for rectification of work?

At the end of the questionnaire a decision is provided based on answers given. You are able to enter personal details and a report can be produced for you to print /save. Retain a copy for your records and if audited, you have a documented basis on which you made your decision.

An important factor is the existence and content of a written agreement between you and the individual. You should consider obtaining legal advice in regard to any contractor's agreement.

It is important to discuss all your labour arrangements with your CQIB insurance broker as contractor or labour-hire alters your exposures hence the need to tailor your insurance program to your specific needs. ■



A business minefield

EMPLOYEES MISUSING SOCIAL MEDIA!

Business owners beware! Even if you or your businesses are not active in the social media space, your employees' online actions can have a lasting real life impact.

In a well-known case from 2011, an employee of Linfox Australia Pty Ltd was dismissed for posting offensive and discriminatory comments about two of his managers on his Facebook profile page.

The Fair Work Commissioner recognised that the posted comments were 'outrageous and distasteful', but found that Linfox did not have grounds to dismiss the employee. At the time of the dismissal and the hearing, Linfox did not have a social media policy.

In the recent case of Malcolm Pearson v Linfox Australia Pty Ltd [2014], the Fair Work Commission held that it is not "harsh, unjust, or unreasonable" to expect an employee to comply with a social media policy that operates outside, as well as inside, the workplace. In this case, Linfox (presumably having learned from its previous experience) had implemented

a social media policy and Mr Pearson's refusal to sign this policy, amongst other shortcomings, constituted a valid reason for dismissal. The Commission dismissed the unfair dismissal case on the basis that the social media policy was a legitimate exercise by Linfox in protecting its reputation and security. The Commission recognised that the natural overlap between public and private life makes such an "invasive" policy necessary.

"It is difficult to see how a social media policy designed to protect an employer's reputation and the security of the business could operate in an 'at work' context only...Gone is the time where an employee might claim posts on social media are intended to be for private consumption only."

These decisions form part of an evolving body of case law that reflects the increasing prevalence of social media and a more sophisticated understanding of its implications in the workplace.

So what should employers do to protect their interests? Most experts agree that employers should:

- Implement a comprehensive social media policy
- Adequately train their employees in the policy and ensure they are aware of the employer's expectations around social media in and out of the workplace, and
- Regularly review the policy to maintain currency.

Employers should be mindful that courts and tribunals are increasingly willing to hold employees accountable for social media misuse. Hence, employers should not shy away from robust disciplinary actions when the circumstances are appropriate. ■



Household workers need cover too

Do you have a regular gardener or cleaner at your home or holiday home? Or maybe you have a paid child-minder at your residence on your social nights out? Have you considered if you require Household Worker Insurance?



If you have paid help at your domestic residence, Household Worker Insurance is critical. A single work-related accident can leave you, the employer, liable for thousands of dollars in medical bills. Even worse, it could lead to a common law claim, which could involve a lump sum payment for loss of future earnings, pain and suffering, permanent impairment etc., which could amount to millions of dollars.

Don't assume you have domestic worker protection under your home and contents policy.

Under the Household Worker Insurance policy offered by WorkCover Queensland, you are covered for the cost of compensating a household worker in your employ who sustains a work-related injury while working for you. These costs may include lost wages, travelling expenses, hospital, medical and rehabilitation expenses and other associated costs.

The policy is only \$50 for a two-year term. For more details head to the WorkCover Queensland website or contact your insurance broker. ■

EMPLOYERS CAN ASK

Late last year the Queensland government made some significant changes to the Workers' Compensation and Rehabilitation Act 2003. One particular change that employers should be aware of is that employers may now ask a prospective employee to disclose any pre-existing injury or medical condition that they believe or should suspect would be aggravated by the duties of the position applied for.

Further, the employer is entitled to access a prospective employee's claims history. The request must be in writing and the prospective employer needs to provide the prospective employee with information about the nature of the duties involved in the job. They also need to advise the prospective employee that if they do not comply with the request, or supply false or misleading information, they will not be entitled to compensation or damages under the Workers' Compensation and Rehabilitation Act 2003 for any event that aggravates the non-disclosed pre-existing injury.

The prospective employer may also apply to the Workers' Compensation Regulator for a copy of the prospective worker's claims history. The application needs to be in the prescribed form and requires the prospective employee's consent.

This information can only be used by the prospective employer for the purpose of considering that person's application for employment.

Whilst these changes will definitely be beneficial to employers, employers need to be mindful that they still need to comply with discrimination laws and the Fair Work Act 2009 (Cth) when considering a prospective employee's application for employment. If a prospective employee discloses a pre-existing injury and they can establish that the employer has discriminated against them based on their knowledge of that pre-existing injury the employer may be liable to pay compensation.

Employers will also need to take account of a possible increased exposure to negligence claims in circumstances where the employee has made disclosure of pre-existing injuries or conditions. If an employer has knowledge that the employee suffers from a pre-existing injury this may give rise to a special or higher duty of care to that employee than it would otherwise owe as a result of being furnished with that knowledge.

Before making any changes to their employment practices based on these changes it is recommended that expert advice be sought regarding the above matters. ■

Be sure. Before you insure!

Ask your CQIB broker about...

Commercial and Retail Insurance

- Business Property
- Business Interruption incl Loss of Rent
- Liability
- Burglary and Money
- Glass Breakage
- Machinery Breakdown
- Computer
- Goods in Transit
- Tax Audit
- Motor
- Contract Works
- Commercial Strata

Liability

- Public and Products Liability
- Professional Indemnity
- Management Liability
- Directors and Officers
- Employment Practices Liability
- Statutory Liability
- Cyber Risk

Private and Domestic Insurance

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

Life, Disability and Partnership

- Life / Accident and Illness
- Term Life
- Long Term Disability / Income Protection
- Key Man
- 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

The articles in Brokerwise are provided as information only. They are not general or insurance broking or legal advice. It is important that you seek advice relevant to your particular circumstance.

Wise.words

"When anger rises, think of the consequences."

— Confucius

"A man without a smiling face must not open a shop."

— Chinese proverb

"Humour is a rubber sword – it allows you to make a point without drawing blood."

— Mary Hirsch

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