



# Brokerwise

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## Just Between You & Me (I HOPE!)

### FACEBOOK AND EMPLOYMENT

As Facebook reaches 500 million users, the website has become a problem for employers. The social media giant offers an intriguing way to make social and business connections, but for businesses it can also be a major distraction. One recent survey found that employees click on Facebook at work more than any other website, including Google.

And as Facebook and other networking websites continue to expand -Twitter and LinkedIn among them – many employers are considering how to manage the use of social media in the workplace.

Some employers are completely open to the likes of Facebook and Twitter and even encourage their use. Others are using the social networks strategically to recruit employees, market their brand and serve customers. A third group is trying to figure out what are appropriate limits to set on Facebook use at work, presumably this means on company owned and perhaps monitored work computers – however, with the proliferation of personal smart phones, can any limits be enforced?

What if an employee using Facebook after hours makes a disparaging comment

about their employer? A comment made recently by a hairdresser about her employer ended up in court. The employee was fired after a Facebook posting. The now ex employee sued for unfair dismissal and the trial judge agreed with the employee who was awarded compensation.

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In handing down the decision, trial judge Commissioner Michelle Bissett issued a warning to both employers and employees, stating that:

- **Employers** do not have the right to sit in judgment on employees' behaviour out of hours and that an employee has a right to a private life. It is only in limited circumstances that an employer could validly terminate an employee for conduct outside of work. A Facebook posting by an employee would need to be detrimental to the employer's business to justify disciplinary action.
- **Employees** would be foolish to think they may say as they wish on their Facebook page with total immunity from any consequences: "a Facebook posting, while initially undertaken outside working hours, does not stop once work recommences. It remains on Facebook until removed, for anyone with permission to access the site to see."

Facebook and other social networking media are here to stay. Employers should consider their Codes of Conduct and IT usage policies so employees know the company's rules on the use of social media, whether accessed in the workplace or not.

Anyone tempted to use Facebook to vent their feelings about, well, anything at all, should know how to hide, remove or limit the viewing of what could turn out to be an ill considered posting with long term consequences.

Go here for 10 Privacy settings all Facebook users should know.

<http://www.allfacebook.com/facebook-privacy-2009-02>

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## Crowded House

### LANDLORDS / RESIDENTIAL PROPERTY OVERCROWDING

There are approximately 45,000 students being accommodated in the city of Brisbane. Many live with mum and dad, others with friends or relatives. Many more reside in student accommodation of all descriptions, some legal abodes, others not. Stories and reports abound of overcrowding where people are 'accommodated' illegally in bedrooms with multiple bunk beds, sleeping in shifts and sharing limited kitchen and bathroom facilities.

Under Queensland law no more than 4 unrelated people or 6 students can live in a residential home. In Brisbane the Brisbane City Council limits the number of students to 5.

An enterprising landlord, perhaps unaware of the law, was doing well illegally boarding 35 international students – at \$200 per week each. Not all domiciled in one house of course but spread over 3 properties that she owned - two homes in one street and

one home in another in the same suburb.

It took repeated neighbourhood complaints to Council over 5 years for Council to exert its power and eventually, through the Courts, have a hefty fine levied on the, by now, rather rich Landlord.

So now after paying the fine, almost \$35,000, our only slightly poorer landlord (do the maths) at least knows the rules. If she or any other enterprising home owners have any more than five 'guests' in residence they will need the property to have Boarding House or Budget Accommodation status. And with that status comes an onerous list of State and Council regulations that include, and here's just one example, a full, property-wide Fire Safety System which demands that: all rooms have alarms; the property have emergency lighting and evacuation procedures; and as well, equipment and training in the use of fire fighting apparatus.

The insurance cover aspect of such a property is another minefield. For insurance to be effected, your insurer needs to have full disclosure as to the usage of the residential or investment property

together with evidence of appropriate leases in place. Otherwise, without full disclosure and relevant compliance with local and state legislation, an owner will have a hard time getting the insurance company to come to the party in the event of a fire or other calamity.

Got more than 5 non-related residents in your home or investment property? Huge profits are a temptation but in the event of fire or other catastrophe, perhaps with fatal outcomes, you could lose everything and maybe, end up in jail. Stay on the right side of the law and avoid the risk of financial ruin by checking that your property is compliant with the law and has sufficient insurance for any eventuality. ■



## Professional Indemnity Policy

### ESSENTIAL TO HAVE BUT WITH WHAT LIMIT?

In times gone by, the term 'professional person' usually described a person engaged in the learned professions. Back then doctors, lawyers, scientists and even bank managers (remember those?) would readily come to mind.

Fast forward to 2010 and 'professional persons' in a myriad of occupations are thick on the ground and can be identified, at least for insurance purposes as:

*anyone who gives to another person advice and/or services of a skillful nature according to an established discipline in return for payment.*

This means there are vast numbers of people out there earning fees in return for

providing advice - which translates to vast numbers of people in need of the protection of Professional Indemnity Insurance to protect them and their businesses from financially crippling and often reputation-damaging claims by dissatisfied clients.

In this 'everything-wanted-by-yesterday' world, even the most respectable companies can find themselves in dispute with a client over a mistake. Can't happen to you? Don't you believe it! Some of the danger areas you and your business could be exposed to include:

- **Negligence:** or breach of professional duty of care.
- **Intellectual property:** unintentionally infringing on others' copyrights, trademarks, broadcasting rights, any act of passing off information.

- **Loss of documents/data:** damaged, lost or stolen data and documents belonging to your clients.
- **Dishonesty:** liability arising from the theft of your clients' funds.

So what Policy Limit is adequate? The time is long past when a \$1 million sum insured was adequate for most Professional Risks policies.

Up till recent times, small to medium-sized professional practices had considered \$1 million a reasonable limit for Professional Indemnity policies. But a significant number of claims today are now exceeding \$1 million, even when the annual fees or revenue received by professional firms and individuals are much less than that amount.

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A leading Professional Risks Insurer reported recently that of their 46 largest claims:

- 16 were for amounts equal to or exceeding the client's policy limit, and
- 11 of these claims were on policies with a sum insured limit of \$1 million or less.

The corresponding fee income received by those Insured's were also well below \$1 million, clearly showing that **fee income is not a reliable indicator of an appropriate sum insured.**

The 'claims made' nature of Professional Indemnity Insurance means that the policy limit in force today applies to any

new claim that you learn about in today's mail until the dispute is finally settled. But this may be many years away and by then may involve a sum many times greater than originally anticipated.

As a guide, these are the things to consider when deciding on the Policy Limit for your situation:

- What is the likely financial loss to third parties in a worst-case scenario?
- What is the potential for consequential economic loss to any third party?
- Coverage must include legal defence costs – no matter how baseless the allegations.

- You cannot control the costs incurred by a claimant pursuing their case and if you lose the action, their costs will be added to any award made in their favour.
- Claimants' legal costs are covered within the limit of indemnity you choose, even though your Policy Limit may be exclusive of your defence costs.

In general, a sum insured of less than \$5 million is unlikely to be adequate for even a small practice which assesses its exposure as low.

Clearly, the best time to review your risk potential is right now. We can help. Please call your broker account manager for an appointment. ■

## Insurance **A REWARDING CAREER**

Looking for a new career direction? Whatever your current occupation, skills and ambitions, if you dig a little, you'll discover that there can be a rewarding career for you in insurance - a global industry.

Many consider that the world financial economy revolves around banking. Not so. Banking is only a portion of the global economy and could not survive without the protection provided by the general insurance industry. Ships don't sail, planes don't fly, movies aren't made, businesses can't operate - just about everything in the modern world needs the security and assurity that only insurance protection can bring.



If it's too late for your own career change, (some say it's never too late) what about your son or daughter? Encourage them to investigate a career in insurance, the rewards are many and one day, they will thank you for your guidance.

Consider insurance broking. It is a highly respected profession that involves

providing clients with information, advice and risk management strategies to enable clients make informed decisions on the level of protection they need for their property or business operations.

A broker researches and compiles information to advise the client, from an informed position, the level of protection required. And then acts as negotiator with the insurance company to obtain the best possible cover for the client's needs at the lowest cost. At all times however the broker works in his or her client's best interest and not in the interests of the insurer.

As a broker's clients are drawn from a wide and diverse range of occupations and industries, a broker has the marvelous opportunity to learn the intricacies and aspects of many industries. No two clients' needs are the same and there is usually great variety in the work, so every day is different for the busy broker.

Working closely with a client usually builds ongoing working relationships, many of which will last the remainder of a working career and often a lifetime.

Brokers must be qualified and that specialised training is usually supplied at the employers cost. Some employers also offer support for the cost of further qualifications.

Dedication to their work usually results in brokers achieving a high remuneration level which is very good when you

consider that the insurance industry usually allows base level entry to candidates with a Grade 12 pass – which will at least get you started. Tertiary qualifications and practical experience will open more doors sooner as well as lead to considerable rewards and a secure future.

Insurance broking as a career offers unlimited potential for personal development with eventual ownership of your own brokerage a very tangible goal. For those with travel aspirations, the world is truly your oyster as the skills and qualifications earned at home in Australia are recognised throughout the Western world.

If you'd like to find out more about the rewards of a career in the insurance industry, just check the insurance classification with major employment agencies, you'll see there is a shortage of Insurance Professionals. Combine this current shortage with rapidly advancing retirement levels of an ageing workforce and we expect you'll see that great opportunities for advancement in a very strong industry are there for those with the right attitude and commitment to succeed.

Insurance Broking – it's an essential part of the exciting world of high finance. How do you get involved? A traineeship or Broker's Assistant role is your gateway to a rewarding career in broking. Call our office for more information. ■

# Employer Liable For Assault

## EMPLOYER'S DUTY OF CARE

The Supreme Court of Queensland recently handed down a decision which may have implications for employers with respect to the security they are required to provide for employees in the workplace.

In this matter, *Sapwell v Lusk*, the plaintiff was employed as an optical technician at an optometry practice in suburban Brisbane.

One day the plaintiff was attending to an elderly man who had come into the shop to have some glasses fitted. She left the man at the front of the shop and went into the back of the shop where repairs were carried out. Unbeknownst to her the man followed her into the back section of the shop and then sexually assaulted her.

The plaintiff was diagnosed as suffering from post traumatic stress disorder and a major depressive disorder as a consequence of the assault.

The back section of the shop where the assault occurred was not visible from outside the shop and was not secured.

Her Honour found that the employer was required to take reasonable care to avoid the risk by "devising a method

of operation for the performance of the task that eliminates the risk, or by provision of adequate safeguards".

Her Honour found that the obvious way to reduce the risk was to have mechanisms in place to enable the employee who is alone and in a situation where she did not have the protection of being able to be seen by members of the public, to exclude others from the work space. She said this would involve no more than placing a door capable of being shut and locked between the employee and access to the employee's work space. She thought another option, to prevent the surprise which generated the plaintiff's inability to repel the assault, was an infra-red beam between the open entry to the back section of the shop which would trigger if someone entered the area. Her Honour found that neither option would have been expensive, difficult or inconvenient.

In light of this decision it is incumbent upon employers to review their security for employees, firstly of course with a view to preventing incidents such as this occurring, and secondly to avoid the expense and inconvenience of claims being made against them with a consequent impact on worker's compensation premiums. ■

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)

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

As we grow old... the beauty steals inward.

— Ralph Waldo Emerson

"A smooth sea never made a skilful mariner."

— English Proverb

"People who are just in it for the money usually fail."

— Robert Holmes A Court

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