



Quiz

Professional Indemnity Insurance for In-House Lawyers

1. What are examples of claims that have been brought against in-house counsel?
 - a. Misleading and deceptive conduct
 - b. Falsifying evidence
 - c. Defamation
 - d. All of the above

2. In what circumstances might in-house counsel be considered an officer of the company within the meaning of the *Corporations Act*?
 - a. Where they are sufficiently involved in a decision of the company, particularly where they hold the dual role of company secretary
 - b. Where they have also been appointed as a director of the company
 - c. Where legal advice given was not prefaced by an indication that the communication was privileged
 - d. None of the above

3. Why might a litigant choose to include the in-house counsel as a defendant in an action brought against the company?
 - a. Because they are required to join as a defendant any party who was involved in giving the advice in question
 - b. In order to obtain access to privileged communications in the course of the litigation
 - c. In order to be able to access directors and officers insurance that covers the in-house counsel as a source of settlement funds
 - d. In order to be able to compel the attendance of the in-house counsel as a witness at the trial
4. What is the consequence for in-house counsel of the fact that professional indemnity insurance policies are often "claims-made" policies?
 - a. A claim will be covered so long as the lawyer was covered at the time that the action giving rise to the claim arose
 - b. A claim will be covered so long as the lawyer is still employed by the company at the time the claim arises
 - c. In-house lawyers need to ensure that they are covered by an insurance policy that will apply at any time that a potential claim can be made, potentially years after the event giving rise to the claim
 - d. It is irrelevant as in-house counsel will always be indemnified by their employer for any claim arising out of their employment
5. What issues arise in relation to legal professional privilege in claims against in-house counsel?
 - a. The court will need to be satisfied that the communication in question was made by the lawyer in the course of performing a legal, and not a management, role
 - b. The company may choose not to waive legal professional privilege, making it more difficult for a third party to access the communications in question
 - c. The same issues arise in determining whether privilege exists as occur in private practice
 - d. All of the above

Answers:

1. d 2. a 3. c 4. c 5. d