

Lexelle Small Business Commercial Legal Expenses Insurance Policy arranged by Qdos consulting Ltd with UK Underwriting Limited on behalf of:

AXA Insurance UK plc, Registered in England No.78950.
Registered Office: 5 Old Broad Street, London EC2N 1AD.

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Summary of Cover

Standard Cover

- Section 1 Legal costs and expenses incurred in disputes with workers
- Section 2 Awards of compensation incurred in disputes with workers
- Section 3 Health and Safety Prosecution
- Section 4 Tax enquiries and disputes
- Section 5 Criminal Prosecution
- Section 6 Statutory Licence Protection
- Section 7 Jury Service
- Section 8 Property Protection
- Section 9 Data Protection
- Section 10 Personal Injury
- Section 11 Disputes with landlords

The Cover

(Words shown in *Italics* are explained in the Definitions section of this Policy Wording)

We will indemnify *you*, and where requested by *you*, any other *insured* against *legal expenses* up to £50,000 any one claim and in the aggregate which arise from the conduct of *your business* based within the *territorial limits* and from *legal proceedings* made by or brought against the *insured*, including appealing or defending an appeal against judgment under the sections of cover provided that the *time of occurrence* is within the *period of insurance* and provided that the claim is notified to the *insurer* during the *period of insurance*.

Section 1 Legal costs and expenses incurred in disputes with workers

The defence of any *legal proceedings* arising from a dispute with an employee, ex-employee, prospective employee or a person claiming employment rights, relating to:

- a) A contract of employment, or an alleged contract of employment, with the *insured*.
- b) Actual or alleged breaches of their statutory rights under employment legislation.

Exclusions Specific to Section 1

The *insurer* will not pay any claims arising from or relating to:

Any dispute where the *insured* has failed to contact the legal advice line for advice and guidance and followed such advice and guidance where circumstances have arisen which might give rise to a claim, or any dispute arising from the dismissal of an employee where such dismissal has taken place with the prior authority of the advice line.

Section 2 Awards of compensation incurred in disputes with workers

Reimbursement of a basic or compensatory award ordered to be paid by an Employment Tribunal or reimbursement of any out of Court settlement to which we have given our prior written consent.

Exclusions Specific to Section 1 and Section 2

The *insurer* will not pay any claims arising from or relating to:

- 1. Any benefit due under a Contract of Employment.
- 2. Any payment due in respect of redundancy.
- 3. Any award made under the Transfer of Undertakings (Protection of Employment) Regulations 1981 or the Equal Pay Act 1970.
- 4. Any dispute that arises within three months of the inception of this Policy except in the case of a renewal or the continuation of an existing insurance arrangement.
- 5. Any compensatory award made against the *insured* relating to or arising from:
 - a) Trade union activities including membership or non-membership.
 - b) Pregnancy, maternity or paternity rights.
 - c) Acts of discrimination on the part of the *insured*.
- 6. Any award made because of the *insured's* failure to provide written reason for dismissal.

- 7. Any compensatory award specified in a re-instatement or re-engagement order.
- 8. Any awards to the extent that they relate to contractual rights accruing to the employee, ex-employee or prospective employee prior to the actual or alleged breach of the actual or alleged Contract of Employment.
- 9. Any award made as a result of the failure of the *insured* to issue the employee with a written statement of the terms of employment or to issue the employee with compliant written details of the employer's disciplinary and grievance procedures.
- 10. Any defence of an action for damages in respect of personal injury including stress related matters or loss of or damage to property.

Section 3 Health and Safety Prosecution

The defence of a criminal prosecution arising from:

- 1. Health and safety at work and occupational hygiene including but not limited to the Health and Safety etc Act 1974.
- 2. Food safety hygiene and food legality including but not limited to the Food Safety Act 1990.
- 3. Occupational hygiene including but not limited to the COSHH and CHIP regulations.
- 4. Supply of safe goods including but not limited to the Consumer Protection Act 1987 the food Safety Act 1990 and the Health & Safety at Work etc Act 1974.
- 5. The Carriage of Dangerous Goods Regulations provided that the *insured* is contracted to the Appointed Consultant to provide a Dangerous Goods Safety Advisor as requested by the transport of Dangerous Goods (Safety Advisors) Regulations 1999.
- 6. An appeal against the service of an Improvement Notice or a Prohibition Notice under the health and Safety at work etc Act 1974 or the Health and Safety (Northern Ireland) Order 1978 and their supporting Regulations.

Section 4 Tax Enquiries and Disputes

Entering a response to a full enquiry by HM Revenue & Customs into a self assessment return, including responding to any appeal or tribunal hearing which shall include a HM Revenue Commissioner's hearing.

Entering a response to an examination by either HM Revenue & Customs or the Department of Social Security following an Employer Compliance visit which arose from and related to an expression of dissatisfaction with the *insured's* PAYE or National Insurance Contribution affairs.

An appeal against a written VAT decision or assessment issued by HM Revenue & Customs. This includes the local review procedure and any VAT tribunal.

Exclusions specific to Section 4

The *insurer* will not pay *legal expenses* arising from or relating to:

- 1. Any tax avoidance scheme undertaken by the *insured*.
- 2. An aspect enquiry by HM Revenue & Customs into a self-assessment return.
- 3. An enquiry undertaken under Section 60 or 61 of the VAT Act 1994 or any investigation or enquiry by the Investigations Division of HM Revenue & Customs, the Inland Revenue Board's Investigation Office or the Special Compliance Offices of HM Revenue & Customs.
- 4. Any dispute or enquiry by HM Revenue & Customs or Department of Social Security that commenced prior to the inception of this policy.
- 5. Any work in connection with the normal reconciliation of the annual accounts and VAT returns where such reconciliation has not been undertaken prior to the dispute or investigation arising.
- 6. The *insured's* actual or alleged misstatement with intent to deceive contained in any relevant business books, records or returns. If such intent is shown the *insurer* shall be entitled to recover such indemnity as it has actually provided.
- 7. Any issue of law practice or procedure not directly connected with the particular investigation, dispute or *legal proceedings* which are the subject of an Indemnity under this policy.
- 8. Any dispute or enquiry where the accounts submitted are being investigated solely because earlier books, records or returns have been investigated or are already under investigation.

- 9. Any dispute or enquiry where any returns have been submitted in a penalty position except where a return is rendered within 6 months of the last filing date and HM Revenue & Customs has accepted that there was a reasonable excuse for the delay;
- 10. Any criminal prosecution.
- 11. Any dispute or enquiry unless, at the culmination of such dispute or enquiry, it is proved that the *insured* was found not guilty of dishonesty, fraud or fraudulent intent.

Section 5 Criminal Prosecution

The defence of any *legal proceedings* in a Court of criminal jurisdiction in respect of any act or omission or alleged act or omission alleged to have been carried out during the *period of insurance*.

Exclusions Specific to Section 5

The *insurer* will not pay *legal expenses* arising from or relating to:

- 1. Any *legal proceedings* relating to an *insured* being prosecuted for infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.
- 2. Any alleged deliberate or intentional act unless the charges are dismissed or the *insured* is acquitted.
- 3. Any proceedings, which do not relate to the business activities of the *insured* as declared on the proposal form.

Section 6 Statutory Licence Protection

An appeal or representation to the relevant statutory or regulatory Licence Protection authority, Court, Tribunal or other mandatory body following an act, or omission or alleged act or omission which leads to the suspending, revoking, altering the terms of or refusing to renew any of the *insured's* licence(s).

Exclusions Specific to Section 6

The *insurer* will not pay *legal expenses* arising from or relating to:

Any claim relating to an original application for renewal or in respect of which an appeal or representation was made in the twelve months immediately preceding the inception of this insurance except in the case of a renewal or continuation of existing insurance arrangements.

Section 7 Jury Service

The income, salary or wages of the *insured* or any director of, partner in or employee of the *insured*, in respect of that individual's obligations to attend court for jury service insofar as it is not recoverable from the relevant court up to a maximum of £100 per day and limited to a maximum of £1,000 for any one claim.

Exclusions Specific to Section 7

The *insurer* will not pay *legal expenses* arising from or relating to:

- 1. Any claim arising from a jury service request served prior to the commencement of this insurance or where the juror has received such a request within the two years immediately preceding this insurance and has been able to postpone the effect of the jury service request except in the case of a renewal or continuation of existing insurance arrangements. The first 5 days of jury service.

Section 8 Property Protection

Any civil action relating to material property, owned by the *insured* or for which the *insured* is responsible, arising out of:

- a) An alleged or actual negligent act or omission of, or
- b) Any nuisance, trespass or criminal damage by a third party, which causes or could cause physical damage to such property or pecuniary loss to the *insured*.

Section 9 Data Protection

The defence of any civil proceedings brought against the *insured* for compensation under Section 13 of the Data Protection Act 1998 provided that the *insured* is already registered with the Data Protection Commissioner.

Exclusions Specific to Section 9

The *insurer* will not pay *legal expenses* arising from or relating to:

Any legal action concerning the grant and/or execution of a warrant of entry.

Section 10 Personal Injury

The pursuit of *legal proceedings* to recover damages for death of or bodily injury to an insured person.

Exclusions specific to Section 10

The *insurer* will not pay *legal expenses* arising from or relating to:

Any claim alleging clinical negligence or any illness, naturally occurring condition or degenerative process, which develops gradually and is not caused by a specific sudden accident.

Section 11 Disputes with Landlords

The pursuit or defence of *legal proceedings* between the insured person and his landlord under the terms of a lease, licence or tenancy agreement applying to the business premises of the insured person.

Exclusions specific to Section 11

The *insurer* will not pay *legal expenses* arising from or relating to:

1. Any dispute relating to the payment of rent, service charges or any other payments due under the terms of the lease, licence or tenancy agreement between the insured person and his landlord.
2. The renewal of the lease, licence or tenancy agreement between the insured person and his landlord.

Conditions and Clauses

1. Your responsibilities

- a) You must notify *Qdos Consulting* as soon as is reasonably possible of any change in the information given to them which may affect this insurance or any circumstances which may give rise to a claim. Failure to do so may invalidate *your* insurance or may result in cover not operating fully. We reserve the right to alter the terms, charge an additional premium or cancel this insurance should we become aware of any fact, which may affect the cover provided by this insurance.

b) All insured persons must:

- (i) Observe the terms and conditions of this insurance.
- (ii) Try to prevent any incident that may give rise to a claim.
- (iii) Take all reasonable steps to minimise the amount payable by us.

2. Fraudulent Claims

If any claim or statement made is in any respect overstated, false or fraudulent, *Qdos Consulting* will have the right to refuse to pay a claim or to avoid this insurance in its entirety.

3. Reporting a Claim

Qdos Consulting should, as soon as possible but in any event within 90 days of the *time of occurrence*, be notified in writing of any potential claim and be provided with any written or other evidence relevant to the issues giving rise to the claim. You will be required to provide the names of any possible witnesses and details, produced at *your* own expense, of any costs incurred prior to *Qdos Consulting* accepting the claim, including any action already taken.

4. Acceptance of a Claim

We are entitled to refuse to accept a claim or to continue to deal with a claim where in *our* opinion the insured person has not disclosed any material information to *Qdos Consulting* or the insured person has failed to provide *Qdos Consulting* or the *appointed representative* with any relevant information and/or supporting evidence. We are also entitled to refuse to accept a claim or to continue to deal with a claim when, in *our* opinion, or that of the *appointed representative*, it is believed that there are no reasonable grounds for pursuing *legal proceedings* or that there are no reasonable prospects of achieving the result for which *legal proceedings* are contemplated.

We may, at any time, require *you* to obtain at *your* own expense an opinion from counsel as to the merits of *legal proceedings*. We will pay, within the limit applicable to the claim, the cost of obtaining the opinion if it indicates that there are reasonable grounds for pursuit or defence of the *legal proceedings*. If we refuse to accept a claim, or to continue to indemnify an insured person, we will give *our* reason(s) in writing to the insured person.

We may decide to settle the claim of the insured by means of a payment in lieu of pursuing *legal proceedings* where, in *our* opinion, to do so would be a more economical solution to the claim.

5. Legal Representation

When *Qdos Consulting* accept a claim they will tell *you* the name and address of the *appointed representative*. That person will not become the *appointed representative* until *Qdos Consulting* confirm in writing that they have accepted

the *claim*. If *Qdos Consulting* agree to the commencement of *legal proceedings* then the insured person has the right to nominate an *appointed representative* from the time at which *legal proceedings* are commenced. This must be done by sending to *Qdos Consulting* the name and address of the nominated *appointed representative* prior to the commencement of any *legal proceedings*. The attention of the insured person is drawn to Condition 1, c, iii. If *Qdos Consulting* and an insured person do not agree about the choice of the *appointed representative*, both parties may agree in writing to choose a second suitably qualified person to decide the matter. In the event of an insured person choosing to nominate a *appointed representative*, *Qdos Consulting* reserve the right to limit the amount of the hourly charging rate applied by the nominated *appointed representative* to that normally allowed by the County Court or Court of criminal jurisdiction nearest to the nominated *appointed representative's* office having conduct of the *claim*. In which case the *insured* will be liable for any part of the hourly charging rate not covered.

6. Control of the Claim

All information, evidence and documents relating to the *legal proceedings* must be provided at the insured person's own expense, to the *appointed representative* when requested and the insured person must meet with the *appointed representative* when requested. The insured person must keep the *appointed representative* regularly informed of all developments and co-operate fully in all respects. *Qdos Consulting* must have direct access to the *appointed representative* at all times. The insured person must provide the *appointed representative* with any instructions required by *Qdos Consulting*, including the supply of any documents or any other information required by *Qdos Consulting*. *Qdos Consulting* is entitled to require the insured person to immediately produce to them all information, evidence, legal advice and documents relating to *legal proceedings* in the possession or custody of the insured person or the *appointed representative*. The insured person, directly or via the *appointed representative*, must inform *Qdos Consulting* immediately in writing if anyone offers to settle the *claim* or makes a reasonable offer to settle the *legal proceedings*.

7. Payment under this Policy

If any offer is made to settle the *legal proceedings* for which insurance has been provided which equals or exceeds the total damages (including any interest) eventually recovered by the insured person, we will have no liability in respect of *legal expenses* incurred after such an offer has been made and refused unless *Qdos Consulting* has given their written agreement to the continuation of the *legal proceedings*. When requested by *Qdos Consulting* the insured person must instruct the *appointed representative* to have the *legal expenses* assessed or audited by the relevant court or tribunal. All accounts, orders or awards of a court or tribunal for *legal expenses* to be paid under this insurance must be submitted to *Qdos Consulting* promptly following receipt of the relevant accounts, orders or awards of a court or tribunal for *legal expenses* to be paid under this insurance. Payment will be made direct to the *appointed representative*, to the other party's legal representative or to such other party as is appropriate according to the terms of any order or award of the court or tribunal. If the insured person withdraws from the *legal proceedings* without the agreement of *Qdos Consulting* cover will cease immediately and *Qdos Consulting* will be entitled to be reimbursed for any *legal expenses* previously agreed or paid to on behalf of the insured person in respect of such *legal proceedings*.

8. Recoveries

We reserve the right to take proceedings in *your* name, at *our* own expense and for *our* own benefit, to recover any payment *Qdos Consulting* has made under this insurance to anyone else. If an insured person recovers any *legal expenses* previously paid by *Qdos Consulting* from any other party, such *legal expenses* must immediately be repaid to us.

9. Arbitration

Any dispute or difference of any kind between us, *Qdos Consulting* and an insured will be referred to arbitration by a single arbitrator who will be either a barrister or solicitor. If the parties are unable to agree on the appointment of an arbitrator, all parties agree to accept an arbitrator nominated by the Law Society or the Bar Council. The arbitrator's decision will be final and binding on all parties.

10. Assignment

This policy of insurance is between and binding upon the *insurer* and the insured person and their respective successors in title, but the policy may not be otherwise assigned by the insured person without prior written consent.

11. Waiver

If we or *Qdos Consulting* fails to exercise or enforce any rights conferred on them by this insurance, the failure to do so will not be deemed to be a waiver, nor will it bar the exercise or enforcement of such rights at any such time.

12. Governing Law

This insurance is governed by English law.

13. Cancellation

We hope *you* are happy with the cover this policy provides. However, if after reading this policy, this insurance does not meet with *your* requirements, please return it to *Qdos Consulting Ltd*, within 14 fourteen days of issue we will refund *your* premium.

General Exclusions

The *insurer* will not pay *legal expenses* arising from or relating to:

1. An *insured event* reported more than 90 days after its time of occurrence.
2. An *insured event* reported outside the *period of insurance*.
3. Fees costs and disbursements incurred prior to the written acceptance of a *claim*.
4. Patents, copyrights, trademarks, merchandise marks, registered designs, intellectual property, secrecy and confidentiality agreements.
5. *Legal expenses* arising from any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or usurped power, confiscation, requisition or damage to property by or under the authority of any government, public or local authority.
6. *Legal expenses* arising from any expense, consequential loss, legal Contamination liability or any loss or damage, to property directly or indirectly caused by, contributed to, by or arising from:
 - (a) Ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
 - (b) The radioactive, toxic, or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly.
7. *Legal expenses* arising directly or indirectly from the failure of computer, data processing and any other electrical equipment or component, including microchips, integrated circuits and similar devices and or any software to recognize, interpret or process any data as its true calendar date.
8. Disputes relating to written or verbal remarks, which damage an insured person's reputation.
9. Causes of action intentionally brought about by an insured person.
10. Any *claim* which, in *our* opinion, or that of the *appointed representative*, is believed not to have reasonable prospects of achieving the result for which *legal proceedings* are contemplated.
11. We may, at any time, require *you* to obtain at *your* own expense an opinion from counsel as to the merits of *legal proceedings*. We will pay, within the limit applicable to the *claim*, the cost of obtaining the opinion if it indicates that there are reasonable grounds for pursuit or defence of the *legal proceedings*.
12. *Legal expenses* incurred before *Qdos Consulting* agrees to pay them on *our* behalf or where the insured person pursues or defends a case without the agreement of *Qdos Consulting* or in a different manner to or against the advice of the *appointed representative* or fails to give proper instructions in due time to the *insurer*, to the *appointed representative* or to counsel or other persons instructed by the *appointed representative* or where the *appointed representative* refuses to act on behalf of the insured person for any reason other than a conflict of interest or in respect of witnesses, experts or agents interviewed, engaged or called on as witness without the prior written approval of *Qdos Consulting*.
13. Any *claim* where an insured person, in the reasonable opinion of the *insurer*, acts in a manner which is prejudicial to the case, including being responsible for any unreasonable delay, withdrawing instructions from the *appointed representative* or withdrawing from the case.
14. *Legal expenses* which can be recovered by an insured person under any other insurance or which would have been covered if this policy did not exist except for any amount in excess of that which would have been payable under such other insurance.
15. Fines, damages or other penalties, which the insured person is ordered to pay by a court or other authority.
16. *Legal expenses* relating to any judicial review whether within the *territorial limits* or not.
17. Any *claim* for *legal expenses* when the insured person is bankrupt, or in receivership/liquidation/administration, has made an arrangement with his or her creditors, has entered into a Deed of Arrangement or part or all

of the insured person's affairs or property are in the care or control of a receiver or an administrator.

18. Any dispute with *us* or *Qdos Consulting*.
19. Please note that the rights conferred by the Third Parties (Rights Against Insurers Act) 1930 are specifically excluded from applying to this policy.

Making a Claim

Claims should be made in writing, as soon as is reasonably practical, to *Qdos Consulting* Limited at the following address: *Qdos Consulting* Limited, Legal Fees Claims Department, Qdos Court, Rossendale Road, Earl Shilton, Leicestershire, LE9 7LY. Tel: 01455 850000, Fax: 01455 841000

Once details of the *claim* have been sent to *Qdos Consulting* and it has been accepted, they will appoint one of their panel solicitors, or other suitably qualified and experienced persons from their panel to act on *your* behalf.

Complaints

It is the intention to give you the best possible service but if you do have any questions or concerns about this Insurance or the handling of a claim you should in the first instance contact the Managing Director of *Qdos Consulting Ltd*. The contact details are: Managing Director, *Qdos Consulting Ltd*, Qdos Court, Rossendale Road, Earl Shilton, Leicestershire, LE9 7LY. Tel: 01455 850000, Fax: 01455 841000

Please ensure your policy number is quoted in all correspondence to assist a quick and efficient response.

In the event you remain dissatisfied and wish to make a complaint, you can do so by contacting the following: The Claims Manager, UK Underwriting Ltd, 2 Gibraltar House, Bowcliffe Road, Leeds, LS10 1HB.

If it is not possible to reach an agreement, *you* have the right to make an appeal to the Financial Ombudsman Service. This also applies if *you* are insured in a business capacity but have a group annual turnover of less than £1 million, or are a charity with an annual income of less than £1 million, or are a trustee of a trust with a net asset value of less than £1 million. *You* may contact the Financial Ombudsman Service at: Financial Ombudsman Service, South Quay Plaza, 183 Marsh Wall, London E14 9SR, Telephone (0845) 080 1800 Fax (020) 7964 1001.

Please note *you* have 6 months from the date of *our* final response in which to refer to *your* complaint to the FOS. Referral to the FOS will not affect *your* right to take legal action against *us*.

Compensation Scheme

AXA Insurance UK PLC is covered by the Financial Services Compensation Scheme (FSCS). *You* may be entitled to compensation from the scheme, if they cannot meet their obligations. This depends on the type of business and the circumstances of the *claim*. Most insurance contracts are covered for 100% of the first £2,000 and 90% of the remainder of the *claim*. *You* can get more information about compensation scheme arrangements from the FSCS.

Definitions

Each of the words or phrases listed below will have the same meaning wherever they appear in the Policy.

Appointed Representative

A solicitor, accountant or other suitably qualified person appointed in accordance with the provisions of Condition 5 to act for an insured person.

Certificate of Insurance

The document attached to this policy, which contains details of the insured person and the *period of insurance*.

Claim /Claims

A request for payment of *legal expenses* resulting from one or more events arising at the same time or from the same cause.

Insured Event

An event, act or omission giving rise to a *claim* against the policy.

Insured / You / Your

The business named in the certificate of insurance and the directors, partners, managers and all other employees of the business.

Insurer/We/Us/Our

UK Underwriting Limited on behalf of AXA Insurance UK plc. UK Underwriting Ltd are an insurers agent and in the matters of a *claim* act on behalf of the *insurer*.

Legal Expenses

Legal and accountant's fees, costs, disbursements and other professional charges in connection with *legal proceedings* which *Qdos Consulting* has agreed to fund reasonably and necessarily incurred by the *appointed representative* or incurred by other parties in civil cases if an *insured* has been ordered to pay them or pays them with the prior agreement of *Qdos Consulting*.

Legal Proceedings

The pursuit or defence of *legal proceedings* in a court of suitable jurisdiction made by or brought against an *insured*, including appealing or defending an appeal against a judgment made in proceedings funded by this insurance, within the jurisdiction of a court or other body within the *territorial limits*.

Period of Insurance

The period stated in the *certificate of insurance* for which *you* have paid or agreed to pay and *Qdos Consulting* have agreed to accept a premium.

Qdos Consulting

Qdos Consulting Limited of Qdos Court, Rossendale Road, Earl Shilton, Leicestershire LE9 7LY which manages the insurance on behalf of the *insurer*.

Territorial Limits

England, Wales and Scotland.

Time of Occurrence

In civil cases the time at which the cause of action occurred or commenced, whichever is the earlier in time; and in criminal cases the time at which the *insured* or any other person *insured* under this policy commenced or is alleged to have commenced to violate the criminal law in question.