



Henson Crisp

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making your future possible

[Business Protection](#)

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## Do I Need to Insure my Business?

Most businesses are happy to insure their premises, contents and their public liability. But in today's economy, physical assets in a business are becoming less important compared to the real assets - its people.

As a business owner, you are critical to the continued success of your organisation. You, a co-owner and perhaps several key staff are the reason for your company's growth and if any were to become seriously ill or die, it could have a severe impact on the company.

If you are a sole trader, and you were no longer around to run the business, it could fold overnight, leaving a life-changing impact on those left behind, including your family.

And if you have a larger business, then it is likely that the success you have built is not just down to one person. The death or serious illness of any key employees could also affect the revenue and profitability of your business.

We can help you plan to avoid these issues.

## How Can I Insure my Business?

There are different ways of ensuring the continued operation of your business, depending on the individual circumstances of the business.

### **Business Income Protection**

- The recent Coronavirus pandemic has illustrated the unpredictability of business life. Business Income Protection is designed to give you the protection you need in the event of a crisis.

### **Business Owner Insurance and Business Loan Protection**

- Similar to a life insurance policy, Business Owner Insurance will pay out in the event of the death of the business owner or their inability to work.
- The policy can also include Critical Illness cover, whereby a lump sum is paid on diagnosis of a critical illness.
- Many businesses have directors' loan accounts, overdrafts, credit arrangements and other loans. Business Loan Protection works much in the same way as a life insurance when you take out a mortgage on a home. In the event of the business owner's death, these loans will be repaid.
- Business Loan Protection can also include Critical Illness cover.

## Shareholder/Partnership Protection Plans

- These protection plans aim to insure the value of the shareholding as well as protect the family of the individual. After the departure of a shareholder/partner, shareholder/partnership protection plans are designed to ensure issues of ownership, and therefore the smooth running of the business, are quickly arranged with shareholdings and money assigned to the right people.

## Key Person Insurance

- This insurance aims to protect the business in the event of the death or serious illness of a key person in the business. Typically, it covers the anticipated loss of earnings attributable to that person until a replacement is found and is performing to the same level as their predecessor – a process that can sometimes take years.

## Business Income Protection

Whether you need Business Income Protection depends on how resilient your business would be to overcoming a crisis.

A crisis can come in many forms: fire, flooding, wilful damage, and as we have seen in recent times, pandemics and “acts of God”.

Damage and disasters – whether accidental, natural or criminal – can be devastating for businesses. Most businesses do not have sufficient resources to continue trading, leading to a loss of income and even closure. If a crisis leaves your business unable to continue, Business Income Insurance is there to help you through the financial side of things, and to help you get back on your feet.



A Business Income Insurance will provide cover for the following:

- Ongoing operating costs and additional expenses if you have to move to new premises or hire more staff because of circumstances beyond your control
- Cover if you lose income as a result of your suppliers' premises being damaged
- Protection for loss of money owed to you due to damage to or theft of your accounting records
- Cover if your utilities supply is disrupted and stops you from carrying out your business

## Business Owner Insurance

If a serious illness causes an owner's long-term or permanent absence from work, it can create the same serious financial pressures as those caused by an owner's death.

It could lead to:

- Reduced profits for the business
- Reduced income for the owners and/or their family
- Difficulty in repaying business debts (including those owed to the deceased or ill owner)
- Loss of confidence among suppliers, clients and lenders
- Loss of clients
- Difficulty in meeting ongoing costs
- Increased costs (e.g. recruitment)

Depending on the specific circumstances, there may be a need to consider the future of the business. Each case will be different. For example, the seriousness of the illness, the ability (and desire) of the owner to return to work, and the feelings of the co-owners, will all require consideration.

Having the correct insurance policy will provide finance to pay the ill owner's income, and cover some of the other financial needs such as revenue replacement, debt repayment or additional expenses.

If you are a sole trader, your death or serious illness could have disastrous financial consequences for you and your family.

Appropriate life insurance that pays out on death or serious illness can help you and/or your family replace the money which would no longer be available from the business.

In order to arrive at the right amount of cover, it is essential to carefully plan what you and your family would need. Writing the policy in trust will help ensure funds are paid promptly to the beneficiaries.

## Business Loan Protection

In the same way that homeowners can take out a life policy on their mortgage, a business may want to protect the repayment of a mortgage or loan, should a shareholder or partner die.

Business loan protection is particularly important if your business:

- Has creditors
- Has an overdraft, commercial mortgage or loan
- Has director loan accounts which are payable on death
- Has individual(s) who have guaranteed the loan.

Business Loan Protection is either life assurance or life assurance with critical illness cover included. A policy is taken out on the life of a key individual or individuals so that any money due from a claim can be used to help pay towards any outstanding debt or loan.

The level of cover should reflect the amount needed to help pay the outstanding borrowings. The policy should be set up to reflect the terms of the borrowings and could be on a level or decreasing basis.

## Business Ownership Issues on Death – Shareholder/Partnership Protection

Without due planning, the death of a business owner or co-owner can cause serious problems. The surviving family as well as the needs of the business need to be considered. Without appropriate arrangements in place the future of your business could be determined by inheritance law. In the worst-case scenario, this could mean that the surviving co-owners cannot continue to run the business themselves and the deceased's family do not receive financial compensation.

With partnerships, a partner will often leave their assets, including their interest in the business, to family members. But what if the family have no real interest in the business and are not capable of running it?

On the other hand, how will the family be protected against the financial consequences of the death of a partner/shareholder? How can they know they will receive fair compensation for their inherited share in the business? How long will it take for the other partners or members to buy out their share?

Moreover, even if an insurance has been taken out to cover the value of a shareholding, negotiations with other stakeholders can reach a stalemate if there is no compulsion to buy or sell shares inherited by the deceased's survivor.

In 2019 the successful coffeehouse AMT hit the headlines precisely because the 3 founding brothers had not reached a shareholder agreement. After the death of one of the brothers a protracted legal battle ensued, resulting in a £7m award to his widow as well as extensive legal costs. A key person premium of around £350.00 a month would have prevented all the anger, infighting and legal costs of the AMT battle resulting in the £7m award. Something to consider over a coffee.

Business protection allows the other partners to regain control of their business if one of them were to die.

Business protection addresses issues such as:

- What is the true value of the business?
- Should the value include any goodwill?
- Where will the remaining owners find funds to buy the interest?
- If they cannot buy the interest, will the family or third party be entitled to a share of profits?

The above issues do not just arise if someone dies. If a partner or member suffers a critical illness, they may well decide to retire and will look to receive a fair value for their interest. Alternatively, they may stay on, in which case the business may have to provide an income to the key person, even though they are not contributing to the profits. At the same time, it may have to pay two salaries for the same role as it recruits and trains an interim replacement for the key person.

We can protect against this in two ways:

1. Drawing up an agreement setting out how interests in the business should be valued and allowing the remaining partners or members the right to buy someone's interest.
2. Providing the funds to buy the interest.

You can control what happens to your share of the business by having life policies in place for each of the business owners. Properly planned and executed, this will provide a tax-free lump sum that allows the owners to purchase and continue to run the business. The family of the deceased will receive the proceeds of the sale.

Where the share of an owner will be left to a family member or members without payment, there may still be a need for life insurance held in trust to 'compensate' another family member - or members - who do not benefit from the business share. Where the share of a deceased partner might automatically pass to the other partners without payment, life insurance in trust is usually needed to financially compensate the family of the deceased.

Below is an example of how the process could work.

1. John, Simon and Louise have each taken out a life insurance policy in trust for their co-owners.
2. They have all reached an agreement that specifies the terms on which the business share of a deceased owner would be bought using the proceeds of the policy.
3. John dies and his business share passes to his personal representatives or administrators if there is no Will.
4. Simon and Louise receive the sum assured under John's life insurance policy without waiting for probate, and free of Inheritance Tax.
5. Simon and Louise use the sum to purchase John's business share from his personal representatives.
6. The personal representatives pass the sale proceeds to John's family, dependants or other people specified in his Will (or, if there is no Will, in accordance with the rules of intestacy).

## Key Person Insurance

Apart from the business owner, most businesses have one or several people with specific expertise or who are otherwise central to the running of the business.

We often try to avoid thinking the worst. But contingency planning is essential. If you run a business and you were to lose a key person, ask yourself the following:

- How easily could the business replace their expertise?
- Would their absence affect business expansion plans or ongoing projects?
- How long would it take, and how much would it cost, to replace that person and get the new recruit up to the same level?
- Would the business be in danger of losing customer orders, contacts, or goodwill?
- Would the business become vulnerable to competitors?
- Would it result in a loss of goodwill or hardening of suppliers' credit terms?
- Are there any loans or overdrafts that depend on the key person?

There will always be at least one key person in any given business.

An insurance policy often referred to as Key Person Insurance can be taken out on the life or health of such an employee. This may be appropriate where that individual's knowledge, work, or overall contribution is considered uniquely valuable to the company. It can cover the costs or losses that may be caused by the loss of that person.

There are additional insurance products you might want to consider offering your key employees as part of their reward package, including:

- Income replacement/protection cover - for times when they are absent from work due to long-term sickness.
- Family protection insurance, by way of a relevant life policy.

Proceeds of the policy would also usually be paid free of inheritance tax under a trust to your employee's family.