

10 Reasons to buy Employment Practice Liability Insurance

1. Entity cover

EPLI policies cover claims against directors, officers, employees, the company and its subsidiaries. The policy covers a long list of claims including wrongful dismissal/termination, sexual/racial/disability harassment, sexual/racial/disability/religious discrimination, employment related libel, slander, defamation and invasion of privacy, wrongful failure to employ or promote and retaliation.

2. Increased claims

It's becoming harder to ignore the compensation culture which continues to gather pace in the UK. In the last two years:

- Equal pay cases increased five-fold to 44,000
- Sexual discrimination cases more than doubled to 28,000
- Religious discrimination cases doubled to almost 700

3. Uncapped damages

Capped damages have been removed for many employment practice liability offences in the UK. Once a prima facie case has been established the burden of proof lies with the employer to show their innocence in a tribunal hearing.

Damages awarded:

- Largest sexual discrimination claim - £217,961 (average £10,807)
- Largest unfair dismissal claim - £477,603 (average £8,679)
- Largest religious discrimination claim - £984,465 (average £30,361)

4. Company reputation

Word gets around. A company's reputation in the marketplace can be severely damaged by employment practice claims. The negative publicity may be followed by potential reluctance of your clients and/or suppliers to trade with the company. In addition, the likelihood of attracting the best talent in the future could be diminished, threatening profitability and growth. The best insurers have an expert panel of solicitors which are tried and tested and work closely with their claims teams to pay defence costs promptly to help minimise the damage.

5. Damage to employee morale

Your staff are an invaluable asset. Employee-based grievances can impact morale and goodwill within the company and prove detrimental to productivity levels. As well as defence costs, damages and judgment sums, EPLI policies can also pay for a public relations consultant to help protect the reputation of an individual involved in any claim.

6. US employees

Many of the large EPLI losses seen in the UK are as a result of claims brought in the US. If you have employees in the US, the risk of employment practice claims is materially increased and the settlement sums are considerably higher than in the UK. Companies must comply with Federal and State laws, and Government agencies such as the Equal Opportunities Commission (EEOC) are particularly aggressive at overseeing compliance. Many of the claims brought by the EEOC against small and mid-sized companies have settled for over \$1mUSD.

7. US class actions

US employment practice violation class actions are increasing. Some US states are more inclined to grant class action status than others but if a class is formed the result can be extremely painful for the defendant company. Legal bills and settlements can spiral out of control unless you have insurance in place to protect your balance sheet.

8. Retaliation claims

An employer may successfully defend an employment practice claim but may also be faced with a retaliation claim. Such claims are brought where the employee alleges that he or she has been refused promotion, been fired or been

moved sideways as a direct result of the initial grievance. The two claims can be brought in tandem or separately but the awards for the retaliation claims can be higher than those for the initial complaint.

9. The European angle

Increased awareness by employees of their legal rights and increased globalisation of larger companies is leading to more EPLI claims in Europe. Large international claims in the press awaken potential claimants and may also attract the attention of regulators. The EPLI policy covers the costs and expenses of an individual insured in preparing for and attending investigations and enquiries by regulators and other Government agencies in scenarios where a formal claim has not been made.

10. A separate limit

Given the high frequency of employment practice claims in comparison to other management liability claims it is a good idea to have a separate EPLI policy. D&O policies usually include cover for employment practice claims brought against individuals only. Crucially, buying a separate EPLI policy protects the company as well as the individual, and helps to ensure that the limit on your D&O policy is not eroded unnecessarily.

Your contacts at Clear

We are always available to discuss a particular enquiry or arrange a meeting. Please contact any of the following members of our team.

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