

6 steps to choosing Employers' Liability limits

At a glance

- Employers' Liability (EL) insurance is compulsory for any business that employs staff
- Great care should be taken when choosing limits of indemnity, especially following recent changes to personal injury law
- See our six steps for helping customers determine an appropriate limit of indemnity



Employers' Liability (EL) insurance is compulsory for any business that employs staff (both temporary and permanent), subject to certain exemptions.

While the statutory minimum is £5m, and today's policies tend to start at £10m, many clients will need a higher limit to adequately meet their needs. We explain why you should consider reviewing your EL limits, and offer guidance on choosing an appropriate level of cover.

Rate change highlights need for review

Work-related injuries regularly involve issues of long-term care and loss of earnings. In such circumstances, lump sum settlements can be awarded, intended to compensate claimants over a long period of time.

As these sums can be invested, a 'discount rate' is applied to offset prospective investment returns and ensure claimants are not under- or over-compensated.

Since 2001, this rate has been set at +2.5%, meaning settlements were reduced in expectation of positive investment returns being made.

However, on 27 February 2017, the **Lord Chancellor dramatically reduced the rate to -0.75%**, meaning settlements will now be increased to reflect expected negative returns.

£10m on single claims now plausible

The reduction in the discount rate has immediate implications for the potential size of future personal injury settlements (see [case study example](#) below).

Historically, it was extremely unlikely that a single claim could exceed £10m, however, following the change in discount rate, this is now a very real possibility. As a result, we are making an immediate recommendation that client's review their limits of indemnity.

Clients should consider the following six points when determining a suitable level of cover:

1. Multiple Claimants

The EL indemnity limit applies to each claim individually. However, work related injury claims can often involve multiple employees.

A claim, or series of claims arising out of a single cause, are considered to be one loss.

Therefore, thinking should always be framed in terms of whether a limit is sufficient to sustain multiple claimants arising from the same incident.

2. Concentration of staff

Employees are often concentrated in one area, for example in an office or on a building site. In these circumstances, one incident has the potential to harm multiple people.

The more staff concentrated in one place, the higher the limits of indemnity businesses should be considering. When individual claims are now reaching £10m, if multiple staff are potentially at risk, clients need to be seriously questioning whether those lower limits are sufficient.

3. Nature of activities

The largest EL claims tend to involve injury as opposed to death, with claimants suffering long-term loss of earnings and the need for continuous care.

One should therefore consider whether the business is engaged in any activities with a higher risk of injury, such as **working at height**.

4. Hazardous locations

Certain locations are more susceptible to incidents and more likely to involve multiple people. Common examples include: offshore locations, railways and airports.

5. Inner limits

Most EL policies include some common limitations. For example, incidents arising from terrorism or offshore will typically be limited to the statutory minimum of £5m.

While these don't impact the majority of businesses, clients should always check for inner policy limits and consider them against their activities.

6. Future circumstances

EL claims can arise years after the alleged incident – in the case of work-related diseases, this can even be decades later.

Between buying a policy and a claim being settled, a lot can change to affect final settlement values. The recent **change in the personal injury discount rate** is a perfect example of this.

You are buying a policy today for claims that will be settled under tomorrow's legal landscape; we don't know what the future will bring, so you will want to factor-in some contingency for prospective claims inflation.

Options for increasing limits

It is important to raise these issues and recommend limits determined suitable for your needs.

Should higher limits be required, Noyce Insurance can approach the primary insurer to request an increase.

However, not all policies will be able to accommodate this, or an insurer might not have the appetite or capacity. Often, a simpler and more affordable option is to **source an excess of loss policy**, which delivers the required capacity above the existing primary limit.

Excess layers are incredibly economical. For example, in many cases businesses are able to buy an additional £15m of cover for less than 10% of their underlying premium.

If looking to protect your organisation from EL claims, it makes sense to spend just that little bit more to ensure you are properly protected.

How we can help

Please call us on 02380 622 190 to discuss further.

Case study – from £5.3m to £10.6m

Employee fell from a height of 8m and suffered a brain injury. After 12 months, they remain in hospital and are likely to require significant long-term care.

- Claim reserve before 27 February 2017 (+2.5% rate) – **£5.3m**
- Claim reserve after 27 February 2017 (-0.75% rate) – **£10.6m**

Reserve doubled due to change in the personal injury discount rate and its immediate impact on the potential settlement amount.

