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# Covernotes

Explaining issues that  
affect insurance

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## Management liability: An insurance that protects your business in essential ways

If you sit down and make a list, you will discover a frightening number of ways in which your business and management team could be deemed liable for a situation. The word 'deemed' is an important one. You do not have to have actually done anything wrong for an allegation to be made. However, the minute an allegation emerges, the legal bill starts to build. Trying to tackle any defence yourself is only likely to make matters worse.

Our society has become more litigious and certain employee rights are now well-established and understood. For instance, the Equality Act<sup>1</sup> has its 15th anniversary this year. Having an employee lodge an allegation of wrongdoing is a real possibility.

### Regulator actions

Regulators provide the legal framework within which a business must operate, and regulator investigations and probes are another legal process that could impact your business. This could be the Health and Safety Executive (HSE)<sup>2</sup>, responsible for ensuring compliance with all health and safety legislation. It could be HM Revenue & Customs (HMRC)<sup>3</sup>, selecting your business for a tax investigation. The Environment Agency<sup>4</sup>, or local environmental health officers, might step in if there is a situation relating to pollution. Or maybe your shareholders might allege that you have been financially negligent in looking after their interests?

Did you know there are currently 90 UK regulators?<sup>5</sup> Of course, that's not all. If you are a company director, you also have very stringent duties<sup>6</sup> under the terms of the Companies Act 2006.<sup>7</sup>

Our society demonstrates a strong desire to hold people accountable for things that go wrong. Accountability is also evolving. Whilst traditionally it was felt to lie with the corporate entity, there is increasingly a move to make individual decision-makers personally liable for wrongdoing or non-compliance. That could be anyone from the head of a hospital in which patients are exposed to risk, or the manager of a warehouse in which a fatality arises.

There are also many ways in which workplace friction can arise, even if you believe you run a tight ship and do your utmost to comply. It only takes one inappropriate comment, one slip-up, or failure to note a problem, and a case could spring up.

### The difference between other liability insurances and MLP

Whilst you may think an employer's liability insurance policy, coupled with a public liability insurance policy, offers the protection your business needs, these covers have their limits. Employers' liability insurance protects a business that receives a claim from an employee for an accident or illness suffered as a result of their work. Public liability insurance covers claims for property damage, or personal injury, brought against the policyholder by a member of the public. To cover the vast area of potential legal disputes beyond this, a business really needs a Management Liability Insurance (MLP) policy.

This comprehensive insurance is intended to cover legal action resulting from allegations of wrongdoing by a company or its directors. It protects the business entity and its managerial team against the legal liabilities they can face. Cover is commonly provided for costs incurred on legal expenses, plus damages and settlements, if these arise from specific types of legal or criminal claims.

<sup>1</sup><https://www.legislation.gov.uk/ukpga/2010/15/contents>

<sup>2</sup><https://www.hse.gov.uk>

<sup>3</sup><https://www.gov.uk/government/organisations/hm-revenue-customs>

<sup>4</sup><https://www.gov.uk/government/organisations/environment-agency>

<sup>5</sup><https://www.gov.uk/government/news/government-launches-review-of-regulators-to-cut-red-tape-and-bureaucracy>

<sup>6</sup><https://www.iod.com/resources/company-structure/directors-duties-and-responsibilities/>

<sup>7</sup><https://www.legislation.gov.uk/ukpga/2006/46/contents>



## The difference between D&O insurance and MLP

Whilst you may think Directors & Officers (D&O) protection is the same thing, D&O cover is just one of three parts of the protection offered by an MLP policy. D&O only protects the company in one specific way — when directors and officers are deemed personally liable for the wrongful situation that has arisen. That could be down to a breach of duty, trust, or legislation, through making misleading statements or errors, by being negligent or engaging in wrongful trading, or through insolvency or defamation, for instance.

MLP goes beyond this. Its second component is corporate legal liability, which considers a company's legal responsibility for any criminal activity, including breaches of health and safety laws, which are criminal offences. This responsibility applies to actions by either the company or its employees. This element of MLP also covers situations such as copyright infringement, pollution incidents, and workplace accidents resulting from a lack of action and compliance.

The third element of MLP is employment practices liability, addressing claims brought by employees who feel their rights have been violated. This could be through situations such as unfair dismissal, discrimination, harassment, breach of employment contract, the suffering of stress at work, pay inequality, lack of promotion and career opportunity, or other types of malpractice in an employment context.


## Front-foot protection through MLP

Whilst other insurances will only step in once a claim has been made, MLP offers legal advice and representation for both allegations and investigations, providing vital support at the start of the claims process, not just the end. With legal expertise provided at every stage, tribunals and court cases can often be avoided. If they do result, full legal representation is provided, and costs and settlements are covered.

MLP goes even further, because it also provides access to a suite of resources and a 24/7 crisis line, which can offer valuable legal guidance. By adopting the right strategies and practices, policyholders can reduce their legal liability risk. By being more aware of what could go wrong and using on-hand resources to stay abreast of new legislation and changes to existing legislation, they can tighten their systems and deliver the right managerial training.

MLP should be viewed as an essential insurance cover in today's business world, considering all the employment laws, regulations and societal expectations which businesses, of all shapes and sizes, are expected to satisfy. Talk to your insurance broker today about getting your MLP protection in place, to cover a vast array of potential legal liabilities.





## The added value of an MLP policy

If your business is only protected through legally required employers' liability insurance (necessary as soon as you become an employer)<sup>1</sup> or optional public liability insurance, it has a gap in its insurance protection that could be costly.

Employer's liability insurance does not protect against any claims which allege that your company or its managers have breached an element of employment law. To access legal support and gain financial protection from any awards made by an employment tribunal, you need an employment practices liability policy — one of the three components of MLP insurance.

The issue with public liability insurance is that it only offers the policyholder financial protection after a claim-resulting incident has taken place. However, legal cases —

and subsequent costs and losses — can also result from hazardous situations that have not yet led to injury or damage.

Such dangers could be observed by members of the public and reported to the Health and Safety Executive (HSE). Or, HSE might spot breaches in health and safety compliance itself. In either case, it could act on this and start a process that culminates in significant costs for the company responsible for the situation under investigation.

## The scope and cost of HSE investigations

HSE, in the year April 1, 2023 to March 31, 2024, carried out over 14,700 inspections. In the woodworking sector alone, it completed over 1,900. Action resulting from an HSE inspection frequently takes the form of an official notice being issued, to stipulate that certain actions and improvements are required. During this period, HSE issued 7,000 notices in total, 5,200 of which were improvement notices. A further 1,800 notices were prohibition notices, preventing work continuing until the unsatisfactory health and safety scenario was addressed. Furthermore, HSE brought 248 criminal prosecutions, achieving a 92% conviction rate.<sup>1a</sup>

Having a situation investigated by HSE can be hugely expensive. This regulator has a range of charges, according to what type of investigation is required, but its standard Fee for Intervention (FFI) (2025) is based on an hourly rate of £183 per hour.<sup>2</sup> FFI charges apply where there is a contravention of health and safety law, or where the inspector believes that to be the case, and where the real or believed material breach warrants the inspector issuing a notification of contravention (NoC).

The total charge applying in such a situation will be the sum of the time HSE spends on site, writing reports, getting specialist advice, talking to workers and to the managers concerned, and carrying out the full investigation.<sup>3</sup> This time will be multiplied by the FFI daily rate.

<sup>1</sup><https://www.gov.uk/employers-liability-insurance>

<sup>1a</sup><https://assets.publishing.service.gov.uk>

<sup>2</sup><https://www.hse.gov.uk/charging/cost-recovery-rates.htm>

<sup>3</sup><https://www.hse.gov.uk/fee-for-intervention/what-is-ffi.htm>



## The requirement for expert legal advice in regulator investigations

Having HSE state an intention to investigate should raise deep concerns and lead to a company immediately seeking legal support and representation. However, if a business has no access to legal expertise through an MLP policy, they may attempt to tackle things alone.

That can be a big mistake, leading a business down a path that compounds the original issue. In one case, HSE became aware that a contractor had dug a 2.5-metre-deep excavation, at a property with unsecured access. With nothing to stabilise the surrounding earthworks, workers were at risk of earth falling on top of them. A Prohibition Notice was served, to prevent work continuing until the situation was addressed. Two improvement notices were also served by HSE, which wanted the contractor to fully secure the site, get advice on workers' risks and implement a safe system of work.

Rather than comply, the contractor carried on working and also failed to both gain risk advice and introduce safe working. It was found guilty of breaching two sections of the Health and Safety at Work Act 1974, fined £40,000 and ordered to pay nearly £6,000 in costs.<sup>4</sup> If an MLP policy were in place, it would have covered the legal costs and charges involved. Public liability insurance would not.

An HSE investigation explores all aspects of health and safety management, so the legal support provided by an MLP policy is required the minute an investigation is announced. An experienced legal representative can then support any manager or director interviewed under HSE caution. If a case progresses to a Magistrates or Crown Court, a public inquiry or a coroner's inquest, the policy can provide legal representation there too.

## Why management liability policies have more value than legal expenses cover

Such support is typically not available through a Legal Expenses policy. Legal Expenses policies are not intended to offer clients advice and representation throughout a regulator's intervention in the way MLP policies do. Additionally, they may not indemnify the client if the insurer's legal advice is not sought and followed.

Other ways in which Legal Expenses policies may disappoint come through their inclusion of a 51% prospect of success clause for civil claims.<sup>5</sup> If a case's likelihood of success is not over that threshold, the policy will not step in to assist.

Legal Expenses policies require the same likelihood of success in employment tribunal claims and expect the insured to have followed the advice of the insurer's legal helpline or that of the Advisory, Conciliation and Arbitration Service (ACAS). If not, they will not cover the legal costs involved in fighting the case. They also offer neither employee dishonesty cover, nor third party fraud cover, and also exclude cover for libel and slander. MLP offers protection in all of these scenarios.

The conclusion is that there is much added value in an MLP policy. To cover all gaps currently existing within your legal liabilities risk management, talk to your broker and get the right MLP protection for your business in place, as soon as possible.



<sup>4</sup> <https://press.hse.gov.uk/2025/03/03/construction-firm-fined-as-hse-inspection-identifies-catalogue-of-failures/>

<sup>5</sup> <https://www.axaconnect.co.uk/siteassets/broker-documents/commercial-lines/product-support-documents/mlp-key-fact-vs-legal-expenses-policy.pdf>

## New employment rights bill enhances attractiveness of management liability insurance

Management Liability insurance policies have already had a significant role to play in assisting employers facing employment tribunals. The advent of the new Employment Rights Bill throws even greater focus on the value of MLP protection.

The Bill, which is currently now with the House of Lords for further scrutiny, has been described as the “biggest upgrade in employment rights for a generation.”<sup>1</sup> Introduced in October 2024, it introduces 28 reforms to employment law. This includes providing unfair dismissal rights to employees from day one of their employment, rather than then after a two-year qualifying period.

With a variety of new employment laws, from the tightening of fire and rehire rules to the ending of zero-hour contracts, there are new pitfalls for employers to avoid.

Add to this an accompanying three-month extension of the time limit in which a claim can be submitted to an employment tribunal (from three to six months), and employers need to be alert.

### Tribunal figures

In 2023/24, 97,000 tribunal claims were filed, which constituted an increase of 13%.<sup>1a</sup> Currently, in 2025, businesses are facing up to the realities of a tough economy and various new employment cost pressures, such as the increased Living Wage and higher Employer National Insurance contributions. Some employers have already started reducing their hiring efforts.<sup>2</sup>

The other financial hit that can accompany a tribunal is any settlement resulting from it. The largest employment tribunal award made in the figures from 2023/24 was £995,128 for a sex discrimination case.<sup>3</sup> The highest number of cases reaching settlement involved unfair dismissal, however, and the largest average award payment was for age discrimination (£102,891). That constituted a rise of

624% on the average payouts for age discrimination cases from the year. However, it includes 50,000 short-term immigrants (those in the UK for 1 to 12 months) and 22,000 short-term

immigrants working abroad. Since these individuals are not part of the resident UK population, short-term migrants have been excluded from this analysis.<sup>4</sup>



<sup>1</sup> <https://hansard.parliament.uk/Commons/2024-10-10/debates/24101044000012/PlanToMakeWorkPayAndEmploymentRightsBill>

<sup>1a</sup> <https://www.mfm.com/insights/employment/the-annual-employment-tribunal-award-statistics-have-been-published-for-20232024/>

<sup>2</sup> <https://www.britishchambers.org.uk/news/2025/04/costs-pressures-hitting-workforce-growth/>

<sup>3</sup> <https://worknest.com/blog/employment-tribunals-figures-reveal-marked-increase-cases-compensatory-awards/>

<sup>4</sup> <https://worknest.com/blog/employment-tribunals-figures-reveal-marked-increase-cases-compensatory-awards/>





## Discrimination

Age discrimination tends to fall under the radar, compared to the other protected characteristics under the Equality Act 2010.<sup>5</sup> With an ageing workforce, such discrimination is something on which employers should keep a keen eye. By 2050, one-in-four workers will be aged over 65.<sup>6</sup>

Other 'protected characteristics' under discrimination law, alongside age, are: gender reassignment; being married or in a civil partnership; being pregnant or on maternity leave; disability; race (including colour, nationality, ethnic or national origin); religion or belief; sex and sexual orientation.<sup>7</sup>

In an eye-opening case for which judgement was given on March 13, 2024, almost £4.6m was awarded in a disability discrimination case with its roots in the Grenfell Tower tragedy. This judgement came after a long six-year legal battle.<sup>8</sup>

Employer obligations with regard to discrimination law are very complex. There are four aspects to discrimination that could result in a tribunal hearing, these being direct discrimination, indirect discrimination, harassment and victimisation. Tribunals are not just costly affairs but long processes, taking managers out of the business and diverting their attention from core business tasks. They can also cause reputational damage and lower the morale of other employees.

## How MLP policies assist with employment liability scenarios

The best way to avoid a tribunal is to ensure you are abreast of all current legislation and can access the best legal advice and resources around the clock. With a Management Liability Policy, you can do this very easily, building your work practices in compliant ways that should help you avoid trouble. If an allegation should arise, you can ring the crisis line at any time 24/7 and get the right help you need, so you know how to proceed.

With the right legal support, you may well be able to avoid a tribunal, either by successfully refuting the allegation or settling the dispute before a formal hearing. Should that not be possible, your policy may cover your right through to final judgement and should cover the cost of the award made to the employee, if you are found to be at fault.

Having this employment back-up has probably never been as important, in the context of the Employment Rights Bill and all of the new employee rights it imparts. To avoid suffering a large financial loss, which can happen to those with even the best intentions, get your MLP cover quickly. With its all-year-round support, instant access to legal advice and its capacity to cover your legal costs, it is a huge asset to have in your employment risk management locker.

<sup>5</sup> <https://committees.parliament.uk/writtenevidence/22776/html/>

<sup>6</sup> [https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/ageing/articles/livinglongerandoldagedependencywhatdoesthefuturehold/\(part3\)](https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/ageing/articles/livinglongerandoldagedependencywhatdoesthefuturehold/(part3))

<sup>7</sup> <https://www.gov.uk/discrimination-your-rights>

<sup>8</sup> <https://redmans.co.uk/insights/sacked-council-worker-with-ptsd-from-grenfell-tower-fire-wins-4-6m/>

## The advantage of having a management liability policy in a contract dispute

It is often nice to do business with people, as the saying goes, but sometimes the relationship can turn sour, leading to legal wrangles and a very quick racking up of legal costs as the fall-out continues. To safeguard against this, two things make great sense. Firstly, all business relationships should be formalised through a contract. Secondly, businesses should safeguard themselves against the legal costs associated with a contract dispute, by buying Management Liability insurance.

A contract dispute can cause significant financial damage to a business and be extremely dangerous from a legal perspective. Such disputes can take various forms, from contract or partnership disagreements, to contract breaches, intellectual property infringements and shareholder actions.<sup>1</sup>

The disagreement might relate to the availability and ultimate supply date of goods, or the quality of goods supplied. One of the parties may believe the other has misrepresented their offering. One party may have been supplied with machinery that is defective, or not fit for purpose. Building works carried out by one contract partner may be faulty. Designs might not prove workable in practice. Or perhaps one party has overcharged the other and not abided by the contract in that regard. They could just as easily have failed to deliver the work programme outlined in the contract. The possibilities are numerous.



Having a clearly worded and legally binding contract is the first step any business should take, when entering into an agreement with another party. This will be the document to which any mediator or court refers, if a contract dispute occurs.

From there, those involved in the wrangle need to be cautious. Ideally, with the right legal advice and expertise, they would go through a mediation process and come to a mutually satisfying agreement that avoids taking the matter to court. If they cannot agree terms without formal judgement, they will then have to proceed to a court of law.

This is the stage at which the costs can truly escalate. It will be essential to prove that a contract existed and that, as alleged, one party broke the terms of the agreement and suffered a loss, as a result. If that can be proved, a settlement figure for the required compensation will be provided by the judge and damages could also be awarded.

Whilst such a judgement can be essential in some cases, the financial impacts of achieving the compensatory award can make it a painful process. Defending a contract dispute, even if a business believes it is not at fault, can be equally detrimental to the bottom line.

<sup>1</sup><https://www.lodders.co.uk/breach-of-contract-how-to-dispute-a-contract/>



When lawyers are working to agreed hourly rates laid out by Government, and when these are between £312 and £566 per hour for a lawyer in London with eight years or more experience, (£282 – £288 in other locations),<sup>2</sup> it is easy to see how costs can run away with themselves. Even trainee lawyers in London earn between £143 and £205 per hour, with the figure being £139 per hour elsewhere in the country. If you have a team of lawyers working on your case, thousands of pounds in legal costs can have been incurred after just a few days.

Yet, pursuing legal rights is important in business, as is rectifying situations that are damaging and caused by a third party under contract to deliver more. To be able to fully get what was desired out of a contractual arrangement, a business needs to be able to draw upon a type of legal insurance protection that will back their pursuit of contractual rights.

Management Liability Insurance (MLP) is the ally you need in such contract disputes. This will provide you with the necessary legal expertise, and cover the costs of your legal advice and representation, with no hit to your company's accounts. It will allow you to pursue your claim, or defence, to the hilt but, ideally, also provide the legal know-how to find a solution before a long-drawn-out court case occurs. It will also offer support when initially drawing up your contracts, with a suite of resources at your disposal, as well accessible help from experts, who can answer your questions.

Do not let a contract dispute be the ruin of your business. Use MLP protection for this reason — and numerous others besides — and you may be able to pursue or defend a legal action without fear of the final legal costs you could face. Talk to us today, to get your cover in place.



<sup>2</sup> <https://www.gov.uk/guidance/solicitors-guideline-hourly-rates>



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