

Employment Practices Liability –

Ten Claim Examples

Since the beginning of the COVID-19 pandemic, the number of employment tribunal cases rose by 13.4%, with an increase of 7% in the 2023/24 financial year over the prior year. At the date of the reporting of these figures, the number of open tribunal cases had increased from 3% on the prior year and stood at 653,000. The most common claims are for unfair dismissal, discrimination and wage disputes (including unlawful deductions). These statistics highlight the challenges organisations face when navigating the tightrope of employment law and show how easy it is to become embroiled in a drawn out legal process at significant cost, especially in a system where the costs risks to the claimant is zero. Whilst the generic reasons for employment claims are often similar, each one has its own nuances. Consider the following examples for the kinds of scenarios, and costs, that employment practices insurance has helped with:

1. Company Activities: Provision of General Construction Services

Turnover: £9,000,000

A former employee claimed unfair dismissal when they believed a redundancy process should have been followed in lieu of dismissal. The tribunal application listed both unfair and wrongful dismissal, as well as age discrimination and age related harassment. The employment tribunal found in favour of the claimant, awarding substantial damages.

Total Loss: £44,000

2. Business Activities: Water Drainage Solutions

Turnover: £140,000,000

A senior member of staff raised health and safety concerns in respect of vehicles at a location of the insured organisation. He claimed that his concerns were not acted upon in the correct manner and actions following his disclosures undermined his position. The claimant resigned and made allegations of constructive dismissal due to whistleblowing. Whilst the employment tribunal found in favour of the insured significant costs were incurred during the tribunal process.

Total Loss: £50,000

3. Business Activities: Educational Charity

Incomer: £5,000,000

An employee on maternity leave made a claim for indirect sex discrimination and refusal of a flexible working application on her return to work. The claimant argued that the refusal of flexible working was based upon incorrect facts and that the charity had breached an implied terms of trust and confidence by enforcing, and then upholding, discriminatory processes. The claim was settled via conciliation prior to a tribunal hearing.

Total Loss: £14,000

4. Business Activities: Creative Agency

Turnover: £7,900,000

A former company employee and shareholder was dismissed from his position for withdrawal of companies funds for personal use. The employee claimed unfair dismissal, as dismissal was a trigger event in the shareholder agreement that would mean his shareholding would be transferred to the other shareholders at par value. The claimant insisted this was the true reasoning behind his dismissal. Whilst the bulk of the defence costs were incurred as a director and officers liability claim, the insureds entity Employment Practices cover also incurred substantial defence costs.

Total Loss: £25,000

5. Business Activities: Hotel Operator

Turnover: £14,000,000

A housekeeper resigned from her position and made a claim for constructive dismissal. The former employee claimed that the employer had tried to manage her out of the business over a period of time following illness using a variety of performance reviews and unrealistic requirements to justify their actions. The claim was settled via mediation.

Total Loss: £32,000

6. Business Activities: Automotive Parts Manufacturer

Turnover: £11,000,000

The employer was accused of a failure of duty of care by not providing a safe place to work and failing to support an employee following and alleged sexual assault on the employers premises. In addition to this, the claimant accused the employer of age discrimination by letting the youngest member of the company be exposed to such serious harassment. The claim was settled via mediation.

Total Loss: £41,000

7. Business Activities: Stationery Distributor

Turnover: £24,000,000

Following a senior employee raising concerns in respect of the validity of an insurance claim, it was alleged that he was subjected to detriment by a company director. This ultimately led to the company advising him that his position was to be made redundant. The employee appealed the redundancy, stating that correct redundancy procedure had not been followed, but the decision was upheld. A grievance was then raised and rejected, following which the employee made claims for unfair dismissal, breach of contract in respect of benefits owed, and detriment. The claim was settled prior to tribunal.

Total Loss: £75,000

8. Business Activities: Demolition Contractor

Turnover: £5,000,000

The claimant alleged constructive dismissal via demotion following allegations of bullying which had caused the claimant stress and anxiety. The claimant had his grievance dismissed by the insured, who refused to reinstate the claimant to his original position, leading to the claimant resigning his position. Although the tribunal found in favour of the insured, the legal costs incurred in defending the case were considerable.

Total Loss: £20,000

9. Business Activities: Employment Outsourcing Administration

Turnover: £33,000,000

The client executed a redundancy review procedure and made a member of staff on maternity leave redundant. The employee made a claim for sexual discrimination and unfair selection for redundancy. The insured was found to be at fault for failure to follow due legal process in respect of redundancy selection. The claimant was awarded significant damages.

Total Loss: £55,000

10. Business Activities: Leisure Goods Distributor

Turnover: £10,000,000

An employee was dismissed shortly after her probationary period due to her unapproachable nature and unsuitability for the role to which she had been appointed. The former employee filed an employment tribunal claim shortly afterwards, citing her mental health issues as the reason for her sometimes unfriendly disposition, as well as claiming disability discrimination. The claimant dropped the claim following the provision of circumstantial evidence from the insured which confirmed their position. Although the claim was unsuccessful, the accusations made still had to be defended and legal costs incurred.

Total Loss: £15,000

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