

Clarity on Employers' Liability Insurance

Why you need to buy Employers' Liability Insurance in a nutshell.

What is Employers' Liability Insurance? If an employee is injured whilst at work or they (or former employees) become ill as a result of their work they are entitled to seek compensation from the employer responsible. Employers' Liability Insurance ensures that the employer has insurance protection against a claim and can meet the compensation costs. The Employers' Liability (Compulsory Insurance) Act 1969 made Employers Liability Insurance **compulsory** if a business has employees.

As well as protecting employees and being a legal requirement there is another good reason to buy the cover - a possible fine of £2,500 a day for failing to do so!

Employers' Liability Insurance policies provide £10 million cover as standard (min requirement £5 million).

There are two very limited exemptions for SMEs to this compulsory requirement.

- Family businesses **which are not limited companies** where all the employees are closely related. (Husband, wife, civil partner, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister).
- Companies employing only their owner where that person owns 50% or more of the share capital.

There is often confusion about who is an employee and in particular the status of labour only sub-contractors and volunteers. Both are likely to be considered as employees for the purposes of Employers' Liability Insurance. The deciding factors are the nature of the relationship and the degree of control over the work, not whether PAYE/NI is deducted or whether they are called self-employed or a volunteer.

When assessing whether someone is an employee consider whether you ...

- deduct national insurance and income tax from the money that you pay;
- have the right to control where and when they work and how they do it;
- supply the work materials and equipment;
- have the right to the profit the workers make;
- require only that person to deliver the service and not a substitute if they are unable to work;
- treat them in the same way as other employees e.g. they do the same work under the same conditions as someone else you employ.

If the answer to any of these is 'yes' you are likely to need to have Employers' Liability Insurance in place.

*You have a responsibility for the Health & Safety of your employees whilst they are at work including carrying out risk assessments and taking all reasonable measures to protect them. For help with these responsibilities sign up for our Risk Management tool, **Risk Partner** – it is **FREE** – go to www.qualitasinsurance.com/extras*

