

Commercial Legal Expenses Insurance



Despite proper risk management practices, even the most successful and prepared organisations can find themselves suffering from the consequences of a legal dispute. And dealing with litigation problems certainly isn't cheap—whether it be hefty fines and legal representation costs or excess time spent away from the office, such disputes can leave businesses with a broken bank and a tarnished reputation. Fortunately, insurance policies such as commercial legal expenses cover can help protect your organisation in these circumstances and set you on the road to recovery.

What is Commercial Legal Expenses Cover?

This type of policy provides cover for legal costs that occur while pursuing a claim or dispute against a responsible party. The policy is a form of 'before the event' insurance, meaning it must be taken out before the event occurs. Specifically, legal expenses insurance can provide cover for the following circumstances:

- **Contract disputes**—This includes cover for costs related to defending or pursuing action under a contract in the purchase, lease, hire, servicing, testing, maintenance, sale or provision of goods or services. In some cases, such as if the dispute concerns money owed, debt recovery may also be included in this policy.
- **Personal injury**—This entails protection for pursuing the legal rights of an insured person after an event results in their death or bodily injury. This cover does not extend to motor accidents.
- **Compensation awards**—This includes cover for certain compensation awards following legal proceedings, so long as compensation is awarded

through a tribunal, the ACAS Arbitration scheme or is a settlement approved by the insurer. Claims for compensation are only accepted if they are considered a legal cost and a 'reasonable prospect of success' existed for a successful defence throughout the claim.

- **Tax and VAT protection**—This provides cover for legal fees or professional expenses related to representation in the following circumstances:
 - Inland revenue investigations with representation at a first-tier tribunal, upper tribunal or at appeal against a decision following a tribunal
 - VAT disputes related to a local review procedure intended to reach an agreement with HMRC, a first-tier tribunal, upper tribunal or VAT tribunal (including an appeal)
 - Formal aspects or full enquiries into the personal tax affairs of insured's directors
 - Disputes regarding the insured's compliance with regulations related to pay as you earn (PAYE), social security and national insurance contributions after a review by the HMRC.
- **Employment disputes**—This includes representation costs and basic or compensatory awards made against the insured. Common employment disputes include topics such as wrongful dismissal, discrimination, harassment and failure to promote or employ.
- **Property protection**—This involves disputes related to the possession of property, tenancy

Provided by Sirelark Risk Services

The content of this Cover Overview is of general interest and is not intended to apply to specific circumstances. It does not purport to be a comprehensive analysis of all matters relevant to its subject matter. The content should not, therefore, be regarded as constituting legal advice and not be relied upon as such. In relation to any particular problem which they may have, readers are advised to seek specific advice. Further, the law may have changed since first publication and the reader is cautioned accordingly. © 2018 Zywave, Inc. All rights reserved.

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agreements and damage of the insured's property. Such cover is for material property, including buildings and the contents within them. This does not include intellectual property.

- **Compliance and regulation**—This includes protection against legal costs from the following:
 - Appeals against health and safety or food safety enforcement notices, as well as dealing with authorities or the HSE prior to a charge
 - Defence in criminal prosecutions or civil legal proceedings related to the insured's organisation, as well as any disputes or proceedings (including the right to appeal) in connection with the Data Protection Act
 - Appeals against terms of a statutory notice served against the insured or against the suspension, revocation, imposed alteration or refusal to renew a government-issued licence or certificate of registration for business activity
 - Representation of the insured or an employee at a formal investigation or disciplinary hearing by any trade association
- **Legal helpline**—Most insurers offer a 24-hour helpline that gives advice on legal matters affecting the insured's business.

Policy Types and Indemnity Limits

Legal expenses cover is available either as a standalone policy or as part of a product package. In terms of indemnity limits, the typical limit for this policy ranges between £250,000 and £1,000,000 per annum. Some policies establish a limit for single claims at £50,000. In standalone policies, premiums (paid monthly or annually) can cost between £100 and £1,000, depending on business size.

General Exclusions

Although exclusions can vary based on the specifics of the claims, the primary exclusions include:

- Any legal expenses other than those agreed in writing by the insurer
- Acts, omissions or disputes that occur prior to the start of the policy in which the policyholder knew (or should have known) could cause a claim
- Disputes regarding patents, copyright, trademarks, passing-off, trade or service marks, registered designs or confidential information
- Disputes relating to franchise rights or agency rights in which the policyholder has the ability to alter the legal relation of another
- Allegations against the policyholder/employee regarding assault, violence, dishonesty, illegal immigration, money laundering or the manufacturing, dealing in or use of alcohol, illegal drugs or obscene materials
- Defence of legal proceedings due to seepage, pollution or contamination of any kind
- Fines or penalties from a court or tribunal
- Disputes between the insured and insurer
- Disputes due to connection with actual or alleged defamation or malicious falsehood
- Legal expenses in connection with judicial review
- Disputes between policyholders, any associated company or partner
- Defence of civil proceedings from actual or alleged tortious liability or breach of duty

For more guidance, contact Sirelark Risk Services today.

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**COVER
OVERVIEW**

