



SFHA Finance Conference 2019 Employment Claims Insurances

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What we will cover

- Why? Some context
- Types of insurance cover for employment claims
- Some observations....and things to look out for
- EVH Member Protect
- Q & A

Some Context

- Tribunal fees unlawful and abolished (Supreme Court)
- Increasing claims being raised in the Employment Tribunal
- Costs are on the rise too

Claims are rising



- Employment tribunal claims are rising...

Year	Number of Claims
2014/15	61,308
2015/16	83,031
2016/17	88,476
2017/18	109,706

- So are the potential penalties...
 - 1999 - maximum unfair dismissal compensatory award - £12,000
 - 2019 - maximum unfair dismissal compensatory award - £86,444
 - 2018 - sex discrimination top award £1,762,130

Why the increase?

- Abolition of Tribunal fees?
- Increased/ever-changing regulation?
- Changing attitudes to work....and litigating about it?

The costs are rising too...

- An example we were told about:
- A 2 day unfair dismissal claim (i.e., not the trial of the century!) - £18,500 in fees
- And, of course...expenses generally don't follow success in the ET

Types of employment claim insurance



- Claimant
- Respondent
- Before the event (BTE)
- After the event (ATE)

Respondent BTE Insurance



- Sold mainly by brokers/HR consultants/solicitors
- The basic principle:
 - The organisation pays a premium each year
 - If an employee makes a claim to the Employment Tribunal:
 - the insurance covers the cost of awards, if made
 - but usually more importantly, covers the legal fees
 - if defending the claim has reasonable prospects
 - Provides certainty/no unbudgeted costs

Some observations/things to look out for(1)



- Requirement to take (and follow) advice? –
 - Easy to trip up
 - Overly cautious?
- Excesses/caps? – you pay first £x, we only pay up to £y
- Only after claim made – battle lines already drawn? ACAS?

Some observations/things to look out for(2)



- Insurer decides if a claim is defended/settled?
- Excluded claims? Some examples:
 - Automatic unfair dismissal (e.g. whistleblowing)
 - Direct discrimination (9 types of discrimination!)
 - TUPE
 - Non-payment of holiday pay
 - Breach of contract
 - Under payment/non-payment of wages
- Loss of “no-claims bonus” - premiums increase if a claim made?

EVH Member Protect



***“EVH Member Protect** is a new service that provides EVH members with legal advice and representation in relation to all employment tribunal claims – from the very first call from ACAS to tell you there is a possible claim, to the end of the final tribunal hearing.”*

EVH Member Protect



- In short, none of the above - all claims where reasonable prospects of defending are covered:
 - No need to take and follow advice
 - No excesses/caps
 - Pre-claim advice covered at ACAS early conciliation stage
 - No premium increases because of claims
 - No enforced defence/settlements
 - All claims covered, no exclusions
- Costs – annual fee from £750 to £1,950 for most organisations

Q & A Session



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