

Legal Expenses Business Guide



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The legislation relating to business is constantly changing and few companies have the in-house resources or expertise to defend themselves against a costly legal dispute.

We help your customers to avoid potential legal disputes through our expert legal advice helplines and legal services website, and should the worst happen, we provide comprehensive legal expenses insurance to help protect their legal rights.

This is a guide to the cover available.

Employment dispute cover

Employee disputes can be stressful, time consuming and very costly to both the finances and reputation of a business. Legal expenses cover pays the legal costs of defending businesses in a range of employment disputes, for example where it is alleged there has been a breach of employment laws or contractual rights of employees. Compensation awarded against an employer are covered, provided that there is a reasonable prospect of success.

Employment dispute scenario (1)

Our insured was subject to a claim for unfair dismissal and unlawful deduction of wages by one of their former employees. We appointed a solicitor to work on the insured's behalf and they assessed the chances of success as being 60-70%.

Mediation was attempted but the matter could not be settled. The matter was quite complex and was listed for a two day trial, the insured won at Employment Tribunal and we paid their legal costs which came to £22,300.





Employment dispute scenario (2)

Our insured contacted us when an ex-employee claimed that they had suffered discrimination on the grounds of religion. The case was high profile and received media attention which led to the insured receiving threatening and offensive correspondence. Our policy provided Crisis Communication cover which paid the fees of a public relations expert to manage media communication to help them put their side of the story.

As it was not possible to arrive at a settlement with their ex-employee through mediation a claim was filed at Employment tribunal. The solicitor appointed by us assessed the chances of winning the case at 60%.

Due to the complexity of the case it was listed for a 4 day hearing. The case was settled in the insured's favour and the legal costs of £21,000 were paid by us.

Employment restrictive covenant cover

Businesses sometimes have restrictive covenants in employment contracts to protect their business interests should an employee or ex-employee attempt to trade in competition with, or work for a competitor. Such contracts can be tricky to draft correctly and legal disputes are likely if a mistake is made. Legal expenses cover pays for the costs involved in resolving legal disputes that arise from restrictive covenants.

Employment restrictive covenant scenario

Our insured hired a new member of staff in a very competitive industry through an open and transparent recruitment process. The new staff member's former employers however alleged that the insured breached an employment restrictive covenant and "poached" the employee. The matter was referred to us and we appointed a specialist solicitor to handle the matter. Upon investigation it was found that the employee's restrictive covenant was unreasonable, as it restricted their prospects of finding similar work beyond 18 months. The matter was settled without litigation and we settled the solicitor's fees of £1,245.

Tax disputes cover

No business welcomes an unexpected visit from the taxman and any investigation by HM Revenue and Customs (HMRC) is likely to be lengthy and expensive. A tax advisor or accountant will represent an insured business if a dispute arises following a compliance check by HMRC. They will also deal with HMRC if there is a formally notified enquiry into the business, as well as a range of appeals.

Tax disputes scenario

Our insured received a letter from HMRC confirming that they intended to make an enquiry into the insured's tax return for the previous year. The insured contacted us and we passed the claim on to a tax consultant. After extensive investigation, HMRC confirmed that the tax return was in order with appropriate tax paid. We settled the tax consultant's invoice for £6,750.



Property cover

Premises are vital to the smooth running of any business. Nuisance, trespass or damage to a policyholder's property by another party could put a substantial strain on their ability to operate effectively. Our policies pay for the legal costs of protecting policyholder's rights and claiming compensation if necessary.

Property scenario

Our insured contacted us when a neighbour began causing problems for their day nursery. This included shouting at female members of staff after dark, slamming doors and complaints to the council about noise. The neighbour complained to environmental health about the sounds of children playing outside, to Ofsted regarding the quality of care and the condition of the garden and he racially abused a parent as she was picking up her child. This resulted in a warning from police.

We appointed solicitors who wrote a strongly worded letter to the neighbour. No response was received and the intimidating behaviour continued. Mediation between the parties was suggested, this appeared to have been successful as the incidents stopped. The insured was very pleased and relieved that further litigation was not necessary, we paid the costs of £900.

Legal defence cover

All businesses must operate within a complicated framework of legislation. Our legal services website can help businesses remain compliant and our cover will also pay the legal costs of defending insured businesses and where applicable employees, business partners or directors from criminal prosecutions, including motoring offences.

Legal defence scenario

Following an accident at the our insured's premises the Health & Safety Executive charges were brought for breaches of health and safety regulations. We were advised of the claim and instructed a specialist solicitor who successfully defended the charges, we settled the solicitor's fees of £2,350.

Compliance & regulation cover

Businesses face ever increasing regulatory burdens from Governmental and professional bodies, as well as regulators such as Ofsted. Legal costs to appeal against the terms of statutory notices issued against an insured's business or to defend them against civil action under the Data Protection Act are covered. We can also help if a business is investigated by a regulatory body or if they have to attend a professional or regulatory disciplinary hearing.

Crisis communication cover

In an increasingly media orientated world, adverse publicity can have a devastating financial impact on a business. Legal expenses cover pays up to £25,000 in professional fees to provide expert advice to help manage communication effectively in times of crisis. This can include drafting a media statement as well as preparing suitable communications for staff, customers and suppliers.

Crisis communication scenario

The insured contacted us after their restaurant was wrongly named in a local newspaper as the potential source of a local E.coli outbreak. The insured was put in touch with a top PR consultancy firm, who are experts at handling difficult PR situations. Following extensive communication with the paper concerned, a correction and apology were printed clearing the insured's name. The £1,262 costs of the Crisis Communication assistance were paid under the legal expenses cover.

Contract & debt recovery cover

Any kind of dispute or problem with a supplier or customer can really have a significant impact on a business. If this happens we will help policyholders to resolve the situation as quickly as possible and pay any legal costs involved.

Problems with cash flow are very common and making sure customers pay promptly is essential. If there is a late payment issue, we will negotiate to resolve the situation as quickly as possible.





Contract dispute scenario

Our insured found themselves in dispute with a builder employed to create an extension to their premises who they thought had overcharged for their work. The other side had an outstanding invoice which they pursued aggressively. The insured contacted us and we confirmed cover for the claim under the Contract & debt recovery section of the policy. We appointed solicitors to act in order to try to resolve the matter as quickly and amicably as possible, the solicitor entered into mediation with the builder. The claim was successfully settled at that stage in favour of the insured. The supplier agreed to write off sums they had previously stated were outstanding with the insured receiving a significant settlement figure in lieu of overpayments. We paid all the legal costs incurred by the insured which came to £2,512.

Debt recovery scenario

The insured owned a an accountancy firm. One of their customers owed £1,952 in unpaid fees and despite repeated requests, failed to pay. They turned to us after failing to get a response to fee demand letters available from the Legal Services website. Proceedings were issued and judgment obtained. High Court bailiffs were instructed to seize goods to the value of the judgment. The costs of £655 were met by us.

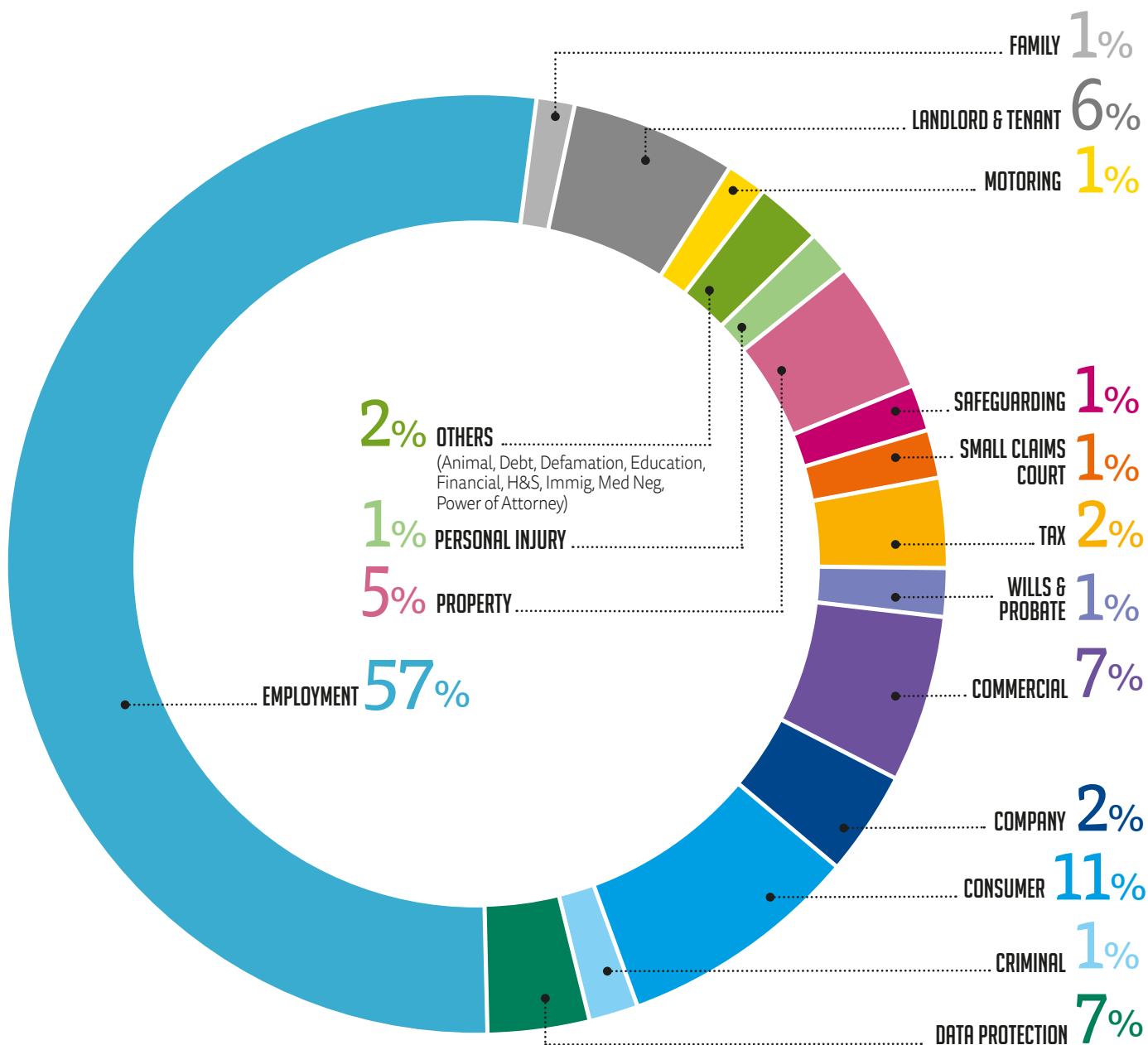
Legal advice - What are the benefits?

Helplines

Policyholders can call the legal advice line and get immediate advice on legal problems affecting their business 24/7. They can also obtain tax related advice from the tax helpline.



What areas are customers most interested in?



Legal advice scenario (1)

An employee has come to me and said they don't think they have been paid the correct amount. I don't want to end up in an employment dispute, what should I do?

The best thing to do is sit down with the employee and go through their pay and hours and see if there has been an error.

Legal advice scenario (2)

We have just had a child join our nursery with a serious nut allergy, what steps can I take to reduce any liability risks?

The best thing to do in this situation is to review your food safety policy and ensure it is robust. Then check that all staff, in particular any that deal with food preparation, are aware of the policy and follow it at all times. Also ensure that all staff are aware of this child's specific allergy and receive any additional training that may be required.





Legal advice scenario (3)

A neighbouring business is starting to encroach on our premise, what can I do?

First you need to find the title deeds to your premise and see what they say about your boundaries. You need to consider how long this has been happening and whether there is a permanent structure like a fence on the boundary. It may be worth asking for a surveyor's opinion.

If after investigating you think you may have evidence of a boundary infringement please come back to us and we will tell you if you have a potential claim.

Legal advice scenario (4)

We have an employee who has been ill for about a year after 9 years' service. He returned to work on reduced hours after meeting with managers. The employee's GP agreed that he could increase his hours some weeks later. However, as he had a few health setbacks our insured had declined the request and then instigated an Occupational Health Report. The employee had a fall before the Occupational Health meeting so the report was negative. The employee has asked to be reassessed and his GP has provided a fit for work note. The employee Pain Clinic and Physio have issued reports confirming he can increase his hours. We aren't in breach of any employment law. What should we do?

We advised that the insured does have a duty of care towards their employee and they should risk assess the role and make reasonable adjustments to allow the employee to return to work full time.

Benefits of the ARAG Legal website resource

The problem of compliance for businesses is compounded by the cost of getting legal advice and help to resolve a legal issue. In fact, the Legal Services Board survey* found that a staggering 51% of businesses try to deal with the legal problem on their own without any external expert help and guidance, leaving themselves vulnerable to a number of risks.

The legal website resource provides an affordable solution to help manage a range of legal needs, easily and conveniently online.

Top 15 most popular documents

Employment agreement

Employment handbook

Debt collection letters for unpaid invoices

Consultancy agreement

Privacy and cookie notice for a website

Employment statement

Health & safety compliance review and policy creator

Debt collection letters for unpaid invoices

Fixed-term employment agreement

Privacy notice for employers

Job offer letter

Zero-hours worker agreement

Employee disciplinary meeting letter

Assured shorthold tenancy agreement

Staff appraisal form

*In need of advice? – Finding of a small business legal needs benchmarking survey – Legal Services Board



What's included in the service?

- ✓ Documents - an easy to use document preparation system which includes hundreds of customisable legal documents, contracts, agreements and letter templates. Many documents are free while others attract a modest charge.
- ✓ Review - lawyers available to check and if necessary amend documents created on the system
- ✓ Guides - comprehensive, jargon-free guides to business law
- ✓ Updates - regular updates on business laws and regulations via e-bulletins

How does it help businesses?

- ✓ Comply with employment and health & safety laws
- ✓ Take steps to recover debts legally
- ✓ Make sure contracts and terms of trading are watertight
- ✓ Avoid financial losses when trading online
- ✓ Get to grips with their legal rights and obligations
- ✓ Save £100s, if not £1000s on legal fees



Legal Expenses Commercial training guide



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