



## Frequently Asked Questions & Answers



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## What is SafeEmploy?

It is a seamless fixed-cost solution to your day-to-day employment law issues.

All of our SafeEmploy packages (Bronze, Silver and Gold) offer you unlimited access to quality advice from experienced employment lawyers based in our offices in Guildford and Woking.

In addition, we can offer you an insurance policy (under SafeEmploy Gold) to provide your business with complete financial protection from claims arising out of employment and health and safety legislation.

## I'm a good employer – why should I worry about the improbability of an employment dispute?

Your chances of being involved in an employment dispute are higher than incurring a serious loss from fire or theft. You readily insure your assets against traditional perils so why would you leave your balance sheet exposed to this increasing threat? We are all aware through the media that companies are regularly required to pay compensation and it is not unusual for awards in excess of £50,000 to be imposed by Employment Tribunals.

## Newspapers focus on the extraordinary, how much is seriously at risk?

In 2015/2016 alone, the Employment Tribunal service received 83,031 claims. Since April 2017, the maximum compensation award for unfair dismissal has been the lower of £80,541 or 52 weeks' gross pay, and awards in relation to discrimination and whistleblowing are still unlimited. If you take into account the legal fees required for your representation as well, typically £15,000 to £20,000, then your business could be exposing its balance sheet to serious and possibly crippling financial losses.

I am only a small business with a few employees so I'm not high risk

Employment legislation applies equally to all employers regardless of their size. Unlike big organisations, who can budget for in-house HR advisors and comprehensive risk management, smaller businesses employing less staff are at greater risk as they lack the management time and resources to effectively manage their staff. Fines, penalties or awards for breaching legislation are not calculated in consideration of what a business can afford and this puts smaller businesses at greater risk as they are often unable to withstand the not budgeted and costly outcome of a dispute with just one employee.

How easy would it be for one of my employees to bring a claim against me?

Employees have a greater awareness of their rights and how to play the system. With information on the internet, solicitors buying claims ("no win, no fee") and the Citizens Advice Bureaux (alongside many other free advisory services), today's employees need to do very little to lodge a Tribunal claim against you. Once you have received notice of a claim you have to respond correctly and the costs then begin to mount.







How much can an employment dispute cost me even if the employee is just trying their luck and I have done nothing wrong?

Even when you think you have acted fairly you can still lose a claim if you incorrectly handle the procedure at an early stage. In fact, a breach of the minimum required standards may subject you to a penalty of up to 25% on top of any award. A good legal advisor will be able to spot these procedural breaches, however minor, and make a claim less likely. Once a claim is presented, the cost of getting a solicitor to prepare a response is in the region of £2,000-£3,000 and if the case progresses towards Tribunal another £15,000 can easily be spent whether on solicitor fees, interview attendance or other costs such as medical opinions. If the case does reach Tribunal then the average cost of just one day at Tribunal is £3,000. So you can see, in monetary terms, even a simple case resulting in one day at Tribunal can cost £20,000. This cost does not take into account the wasted management time, business disruption, staff morale issues and bad publicity that could result from a dispute.

Surely if someone is just “trying it on” they will have to pay our costs once it has been proven their claim is unfounded?

Even where you are able to navigate the minefield of statutory provisions and deal with the dispute lawfully, the Employment Tribunals do not work in the same way as other types of Tribunals or Courts. The employee can have their dispute heard in Tribunal and your representation costs are normally not recoverable even if you win. Therefore even if employers win they are never really winners.

How does SafeEmploy work?

SafeEmploy delivers a dedicated and effective fixed cost employment risk management solution that makes compliance easy and the unexpected costs of dealing with employee disputes a thing of the past. In short, we get you compliant, we give you expert advice through our helpline to help you manage your staff in ways that are best for your business and, as long as you follow our advice, we protect your business from the cost of employment disputes.

I already purchased a similar service through an HR company – why is SafeEmploy better?

We are confident that because we are local experienced employment law solicitors whose primary duty of care would be to your business, we will far outperform any other solutions in the marketplace. In addition to the expert personal nature of our advisory service, the insurance company behind SafeEmploy have authorised us to handle any claims on your behalf under the policy. This means you have seamless risk management and insurance protection that you can depend on.

We would be happy to talk to you about the comparative advantages of SafeEmploy above your existing arrangements should you require.

What does the SafeEmploy insurance policy cover and how does it work?

The SafeEmploy insurance policy will cover the costs of Tribunal awards and/or the costs of settlements agreed as a result of conciliation proceedings arising in respect of a dispute with a previous, existing or prospective worker. It also covers the legal fees incurred by us in handling an employment dispute, any third party costs or disbursements incurred. Please note that not all employment awards are covered by the policy.

The SafeEmploy insurance policy also covers the cost of seeking expert advice on crisis communication if the nature of your dispute puts the reputation of your business at risk.

SafeEmploy also offers optional cover for pursuing former employees who act in breach of their restrictive covenants and appeals against any adverse decisions by a licensing or other authority which affects your business operations.

The level of cover is chosen by you at the time of purchase and will be stipulated in your insurance cover note. This will include the applicable excess and limit of indemnity in respect of each and every claim.

It is a condition of the insurance that you follow our advice.

A full policy wording showing terms and conditions is available if requested.



If you give such good advice and I have all the right employment contracts and procedures, why should I need insurance?

We regularly see cases where making the right decisions as an employer is not enough to prevent claims arising, whether it is as a result of the actions of rogue managers or just disgruntled employees. Unfortunately some employees are becoming experts at playing the system and spurious claims can still incur substantial legal fees and often require settlement as the most effective method of alleviating a dispute.

It is important to note that under discrimination legislation, there is a presumption that employers are liable for discriminatory acts carried out by their employees whether done with or without their knowledge. Awards for discrimination are unlimited.

For this reason, employment disputes indemnity insurance is provided as part of the Gold package. This protects you from unforeseen legal costs, settlement payments and possible awards of compensation that are not budgeted for.

I have a legal expenses policy that covers employment disputes already – why should I switch to SafeEmploy?

Unfortunately it is common for traditional legal expenses claims to fail because the insured has breached their policy conditions by not having adequate employment contracts, practices or have inadvertently taken an action that insurers deem to have compromised the defence of a claim. Unless you have received a claim, you will probably not be aware of this problem but by the time this comes to light, it is too late.

If you are interested in finding out more about the pitfalls of buying legal expenses insurance, please see the last question of these FAQs.



Having an insurance policy that covers the legal costs and compensatory awards involved in an employment dispute does not stop the disruption to my business, bad publicity or wasted time by our staff in having to handle the dispute.

Because you use our helpline on any staffing decisions, we are able to catch employment issues at the earliest opportunity or even before they start. This stops many claims from developing, leaving you to concentrate on running your business. SafeEmploy is specifically designed to settle problematic disputes prior to Tribunal proceedings, further reducing wasted time and saving you from becoming embroiled in lengthy and difficult disputes.

Will SafeEmploy affect my client-solicitor relationship?

The simple answer is “no”. We will continue to give you independent expert advice and to act only in your best interests. We can advise you commercially and, in addition, clearly explain to you from the outset how your insurance cover will react when you are contemplating all your options for handling employees.

How much does SafeEmploy cost?

A lot less than you think – just consider the cost of defending your business, funding not budgeted compensatory awards and the disruption to your business. We are confident that you will find the cost of this essential protection excellent value. Remember, directors can personally be at risk for failing to implement compliant procedures that protect employees’ rights – can you afford not to talk to the experts?

For a formal quotation, please complete the Quotation Form and return it to us.



## Why shouldn't I just buy an employment disputes legal expenses insurance policy rather than SafeEmploy?

Nearly all policies exclude claims if there are no reasonable prospects mounting a satisfactory defence (this is determined by your insurer). If you do not operate with the following employment practices you will be very lucky to have your claim covered and you will only find this out after it is too late!

- clear set of terms and conditions
- clear employee handbook
- clear policies and procedures
- clear letters and forms
- clear database and records
- continuously updated documents

Unless you apply risk management in these areas, the insurance you are buying will not be effective.

In addition if you take any action that could harm the defence (again in the opinion of your insurer), you will negate your policy cover. For this reason it is essential to have access to qualified advice on your day to day employment matters.

Your reactionary insurance may cover the consequence of a financial loss but it will not cover

- business disruption
- wasted management time
- bad publicity
- damage to staff relations

These can be very substantial costs to a business that only early professional advice and adequate risk management will avoid.

Your insurer may offer a helpline but remember they are not instructed to act in your best interests and the objective of their advice is to prevent them having to pay out on the insurance policy.

Without an adequate advice line such as that provided by SafeEmploy, how can you be sure:

- that you receive independent advice on consequences of business decisions relating to your employees - it is easier for insurers to advise you to take no action rather than expose their policy and this can be restrictive;
- exactly how your insurance cover will be affected prior to taking any action;
- you do not negate your insurance protection unwittingly when an incident arises;
- what you knew last year is the same this year, as employment legislation is constantly being introduced, amended and interpreted in different ways.

If I have employment disputes insurance, who assists me in handling my claim?

Many clients who have legal expenses insurance still have to pay an employment solicitor to handle their claims and present their interest to the insurers. SafeEmploy combines all the essential elements to give you a full service.

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We hope that these questions and answers have assisted in explaining some of the key benefits of SafeEmploy. We strongly believe the combination of expert solicitors and insurance provides our clients with the best solution to this growing problem area for businesses. If you have any further questions that do not appear in this document, we would be more than happy to answer them for you.

If you would like to find out more about any of our SafeEmploy packages, please do not hesitate to call us on **01483 748500** or email [safeemploy@barlowrobbins.com](mailto:safeemploy@barlowrobbins.com)

## NOTES

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