

Presenting your employers' liability risk to your insurer

This guidance is aimed at helping you to understand better what your employers' liability insurer needs to know about your business, and how by presenting your health and safety risk management standard to your insurer you can receive the most benefit.

Introduction

As you know only too well the cost of Employers' Liability insurance (EL) has been rising. Insurers explain that this has been caused by both the increased cost of claims due to factors such as society's increasing claims consciousness and legal changes, as well as by wider financial market conditions.

Whilst these factors will inevitably affect premium levels you may be able to influence the premium you pay by ensuring that your health and safety risk management efforts are made known to your insurer.

Insurers largely base their decision on how much premium you pay upon the information they receive about the nature of your business; primarily your claims experience and how well you are managing your health and safety risks.

This document outlines:

- EL insurance and premium pricing;
- How health and safety risk management quality influences premium;
- Demonstrating this to your insurer.

What is Employer's Liability Insurance?

Employers' Liability insurance:

- is a compulsory insurance as all employers are required to have it by law - see "Liability Insurance" note;
- covers employers for the costs of claims for

negligence made by employees who suffer injury and ill health due to their work.

How is my EL premium calculated?

The principle of all insurance is that the premiums of the many forms a financial pool such that the claims of the few can be paid.

The size of the premium you pay is based upon information supplied by you to your insurers either directly or via your broker

Typically it falls into 3 categories:

1. Your business activities;
2. Your loss history - claims & accidents; and
3. The standard of your health and safety risk management system.

The information required and weighting given by insurers to determine premium varies. For example, large companies are primarily rated on their claims experience where this is statistically significant. Most SMEs however, particularly those involved in higher risk activities, will be "book rated".

Under the book rating method the nature of the work you carry out is used to find the "base rate" for your trade. This rate will have been previously established by your insurer's past claims experience of your trade overall, as well as being influenced by other data such as that provided by the HSE. This approach ensures that inherently more hazardous trades contribute more to the overall financial pool needed to meet all claims.

Your individual contribution is then determined by applying multipliers or factors to the rate to reflect the size of your business in terms of numbers employed e.g. wage roll, your past claims experience and your health and safety management system quality.

What factors would help me to reduce my premium?

Hopefully you don't want to change either the nature of your business or its scale just to reduce your premium. Clearly you can't change the past claims history of either your industry or your company.

The one area you can influence however is the quality of your health and safety risk management system. Not only could this affect the immediate premium but any efforts made here may also reduce future claims levels and lead to improved company performance.

What could be the benefits?

Each insurer will take a different view on the extent to which they reward good health and safety risk management practices. For those having a good claims experience and being able to demonstrate a high quality health and safety risk management system, substantial "savings" of perhaps up to 25% may be possible compared with similar businesses without such features.

Having good quality health and safety risk management systems in place will also have wider business benefits reducing the uninsured costs such as lost time, staff turnover and retraining. These can be many times the immediate direct claims costs. HSE estimate that for every £1 recovered through insurance the total unrecovered loss exceeds £11.

What do you mean by a health and safety risk management system?

Your insurer needs to be confident that you have a positive and proactive approach to managing health and safety. Also that your management style or system is aimed eliminating or controlling

your significant risks and hence lowering the potential for accidents and disease claims.

As a minimum you should be able to show that you meet legislative safety management requirements particularly those of the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and other relevant legislation controlling your significant risks.

Ideally formal management systems including external verification should be in place such as those described in ISO 18001, BS8800, HS(G)65) but in many cases this may not be practicable.

However all of these are based around a management system model, illustrated below, which provides a framework for continuous improvement even for SMEs.



Briefly, such an approach comprises:

- having an effective **policy** that is:
 - a written statement of policy and details the organisation and arrangements for health and safety;
 - clear, relevant, reflects what happens and details your health and safety objectives;
- **organising** to achieve your health and safety objectives by having:
 - effective management control;
 - clear allocation of responsibilities and resources;
 - good communication;
 - competent individuals;
 - employee consultation.

- **planning** based upon:
 - risk assessments, and;
 - prioritising actions to eliminate or implement safe work methods to control significant risks.
- **measuring** health and safety performance by:
 - proactive inspections, and;
 - reactive accident/incident investigation.
- **reviewing:**
 - your health and safety organisation and arrangements, and;
 - implementing any necessary improvements to your health and safety management system.
- having an **audit**, preferably independent:
 - that compares your health and safety risk management system with your competitors and best practice.

Whilst you may not have a formal system such as the above in place you may already have many of the elements that go towards having an effective health and safety risk management system.

How can we demonstrate our health and safety risk management system to our insurer?

Make certain you are using a broker who fully understands your business and the prevailing market conditions. Also that you have an insurer who understands your business and will take your health and safety risk management effort into account.

There is as yet no market consensus on the scope or format for the information that insurers may require. Some insurers may have their own standard templates for presenting the information they require and this enables their underwriters to make a quick assessment. Different brokers may also present your information to insurers in different ways as well.

Ideally insurers would survey risks prior to acceptance however this is not practicable and

hence they will rely upon selective key aspects they consider important.

Insurers don't want to know everything about your health and safety management system, but they do need to be convinced that you are aware of the significant health and safety risks of what you do, and that these risks are well managed. Providing supporting documentary evidence particularly of past and current performance is important in gaining their confidence.

The attached table gives a suggested framework and guidance for what should be included within the information that goes to an insurer. If provided to them in a systematic way, it will enable them to consider your employers' liability risk in relation to the quality of your health and safety risk management system.

Further help and information

Sources of advice on health and safety risk management include

- The Health and Safety Executive (HSE), which enforces health and safety legislation in construction, and has a confidential telephone helpline service. Tel no 08701 545500. They also produce a wide range of literature which is available from HSE books. Tel no. 017187 881165.

Useful publications from HSE Books include

- Successful Health and Safety Management, 2000, HSG65 ISBN 07176 1276 7
- Management of Health and Safety at Work Regulations 1999, 2000, ISBN 0 7176 2488 9
- Managing Health and Safety in Construction, 2001, ISBN 0 7176 2139 1
- Health and Safety in Construction, 2001, ISBN 0 71776 1143 4
- Your existing insurer and broker;
- Your trade association.

Further information on general insurance matters can be found on

Constructing Excellence website
www.cbpp.org.uk

Employers' Liability Information Criteria

Information Category	Criteria	Comment/example of evidence
1. Business Activities	<p><i>Business History, Activities and Scale</i></p> <p>What you do, where and how you do it</p>	<p>Information such as</p> <ul style="list-style-type: none"> • Date established and ownership • Typical customer, contract examples, numbers and size • Brief description of type of work and methods employed • Wage roll /Turnover; numbers direct employees (temporary and permanent) • Extent of use of subcontractors and their work
2. Loss History	<p><i>Loss History</i></p> <ul style="list-style-type: none"> • Claims • Reported accidents and occupational disease • Prosecutions and enforcement notices 	<p>In past 5 years (if available) details of</p> <ul style="list-style-type: none"> • EL and PL Claims • Numbers of RIDDOR reportable incidents and occupational diseases • RIDDOR major accident frequency rate (5 year maximum) compared to industry sector • Prosecutions and enforcement notices
3 Health and Safety Management System	<p><i>Policy</i></p> <p>H&S Policy comprising statement, organisation and arrangements</p>	<p>E.g. Copy of up to date and signed H&S policy statement (recommended even if less 5 employees)</p> <p>E.g. List detailing organisation and arrangements considered</p>
	<p><i>Organising</i></p> <ul style="list-style-type: none"> • A senior manager is responsible for H&S • There is a competent (int & external source of H&S advice) • Policy, organisation and arrangements details are communicated • Control of sub-contractors • Training (induction, on site and skills) is carried out 	<ul style="list-style-type: none"> • Name/title • Name/title/ H&S qualification • E.g. copy of H&S committee minutes, safety e-mail, safety rules • E.g. Vetting system, Insurance checks, • E.g. copy of a training record for staff at highest risk • E.g. % staff trained to industry best practice level e.g. CSCS
	<p><i>Planning</i></p> <ul style="list-style-type: none"> • Risk assessments carried out for all significant risks • Safety method statements are prepared • Emergency arrangements are in place 	<ul style="list-style-type: none"> • Title of HSE/ other Codes of Practice Guidance followed • List of risk assessments carried out and example of one • Copy of a recent safety method statement • Copy of site fire safety plan, hot work permit
	<p><i>Measuring</i></p> <ul style="list-style-type: none"> • Workplace activity, plant and equipment inspections are carried out • Accidents/incidents are reported, recorded and investigated 	<ul style="list-style-type: none"> • E.g. copy of site inspection, supervisors reports, equipment checks etc • E.g. Copy of accident report and investigation findings/actions
	<p><i>Reviewing</i></p> <p>H&S policy organisation and arrangements and performance are reviewed internally</p>	<ul style="list-style-type: none"> • E.g. Date of last review, copy of internal review summary findings and actions taken
	<p><i>Auditing</i></p> <p>H&S policy organisation and arrangements and performance are reviewed externally by independent third party</p>	<p>The following are examples of external reviews that may be valued by insurers.</p> <p>E.g. OSHAS 18001 accreditation, BS8800, HS(G)65, CHAS, Trade Association vetting, QualityMark, Construction Line.</p>