



A GUIDE TO HANDLING EMPLOYMENT PRACTICES LIABILITY (EPL) CLAIMS UNDER DUAL'S MANAGEMENT LIABILITY POLICY

Has an EPL claim been made?

The majority of Claims for DUAL Insured's involve Unfair Dismissal Applications and General Protections Applications lodged in the Fair Work Commission (FWC) by the Insured's employees. This can occur even though the Insured has followed the correct procedures.

Three main Employment Practices Breaches that are alleged by employees include:

- Unfair or wrongful dismissal;
- Discrimination; and/or
- Defamation

Generally, the determining factor as to whether a Claim has been made against the Insured is to identify what loss has been suffered by the Insured. The best way to determine this is to identify what the employee is seeking. From our view, employees often seek financial gain.

Claims for compensation or general damages (sometimes referred to as pain and suffering) are covered as 'loss' under DUAL's ML Policy and the quantum of most Claims would seriously damage the financial position of most small to medium sized enterprises (SMEs).

However, it is also important to note the remedies that are not covered under the ML Policy. The most common is employment related benefits, which include:

- Leave entitlements;
- Redundancy or bonus pay; and or
- Underpayments or back-pay of wages.

In simple terms, the Policy does not cover any entitlements the Insured was or is required to pay the employee under any employment contract or under any law.

When to make a claim?

As soon as the Insured is made aware of a dispute or issue that may give rise to a Claim, notify DUAL as soon as practical in writing at: claims@dualaustralia.com.au. Generally, the Insured is made aware of an issue by the FWC who would have provided the Insured with a Fair Work application lodged by the employee.

Be proactive

In order for DUAL to assist in the process, we ask that all interested parties work together so that a notification is lodged as soon as practicable.

If the potential claim is notified late, we will reserve our rights in relation to any prejudice suffered. For example we would only reimburse legal costs capped at our Panel Lawyer's rates.



What information does DUAL require?

When submitting a potential Claim under EPL, please ensure the following documents are provided to DUAL, as it will assist us to consider Indemnity.

Checklist (applicable for a Fair Work issue):

- A completed DUAL Claim form
- The employee's contract of employment
- The employee's Fair Work Application
- The Insured's Response to the Fair Work Application (if available)
- The FWC Notice of Listing for Conciliation (if available)

What happens next?

Our Claims Officers include legally qualified professionals who will work with you to manage each potential Claim.

If Indemnity has been granted, DUAL will appoint Panel Lawyers to assist the Insured with their defence and DUAL will contribute to settlement and defence costs subject to any applicable excess.

If Indemnity has not been determined, we can appoint our Panel Lawyers to assist the Insured on a 'without prejudice' basis, until such time as we can conclusively determine our Indemnity Position.

Our Panel Lawyers

Our Panel of Lawyers who have offices in different states across Australia, are specialists in this field.

Each Panel Firm has been carefully selected to assist the Insured in this process. Each lawyer will work with the Insured and the employee to seek a resolution that is both fair and comfortable for the Insured.

EPL claims

EPL Claims are one of DUAL's most common notifications. Employers can follow the correct procedure and still be subject to an EPL Claim from a displeased employee. This is the reason why DUAL's ML Policy is crucial for SMEs.

DUAL's point of difference is we provide simple and effective cover from inception to settlement. Through the WebRater, brokers can obtain instant quotations and bindings for Management Liability 24 hours a day, 365 days a year. Our legally qualified in-house Claims Team bring experience and innovation together to provide professionalism and quality advice throughout the Claims process to make sure that Policyholders can get back on their feet following an EPL Claim.

**A copy of the DUAL
Financial claim form
can be found here:
Financial Lines Claim Form.**

FIND OUT MORE

For more information on our EPL product please contact your local DUAL underwriter or visit the DUAL Website

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