

Supplying Employers' Liability Data

A Broker's Guide

This guide is intended for brokers, managing general agents and delegated authorities and explains what Employers' Liability policy information needs to be collected. The aim of the guide is to answer the more common questions being raised to ensure a consistent approach from the broker market.

www.elto.org.uk





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Executive Summary

About ELTO

The Employers' Liability Tracing Office (ELTO) is an independent industry body comprising of members who are Employers' Liability (EL) insurers.

The introduction of ELTO has been a proactive move by the insurance industry to meet its obligations to help those who have suffered injury or disease in the workplace. A centralised database, Employers' Liability Database (ELD), helps identify the relevant insurer quickly and efficiently, as does the surrounding tracing processes in conjunction with Financial Conduct Authority (FCA) regulations.

FCA regulations have changed the way firms record EL information and the FCA's rules and guidance support the insurance industry's move to establish ELTO and create the ELD, to help potential claimants find their former employer's EL insurer. ELTO's Members are required to supply policy data to the (ELD), on all new and renewed EL policies with a cover start date of 1 April 2011 onwards. The FCA rules also require insurers to submit data in respect of claims made for policies pre-dating 1 April 2011. The ELD is accessible for claimant searches via www.elto.org.uk and is used to trace EL policies.





What is an ERN?

Employer Reference Numbers (ERNs)

The Employer Reference Number (ERN) is also known as the Employer PAYE reference.

The ELD's ability to provide enquirers with successful trace results is supported by establishing a unique identifier for employers ELTO has adopted the ERN as the most effective unique identifier available and provides ERNs to the ELD on behalf of its members.

Why we use an ERN

HMRC includes the ERN when responding to employee requests for their employment history schedule, therefore enabling the claimant to use it to search the ELD. The ERN is shown on the P45, P60, P11/D and many payslips.

There are very few ERN exemptions

In all cases where PAYE is operated, an ERN is allocated to the employer and the ERN applies to all UK businesses employing one or more people.

A minority of employers do not have an ERN, including those that:

- pay all employees below the current Lower Earnings Limit, none of the employees has another job, and none of the employees is in receipt of a state or occupational pension or other employee benefits – for more information on the threshold limits, please see the HMRC website (www.hmrc.gov.uk)
- are registered in the Isle of Man or the Channel Islands (these have no tax presence in the UK).

Do I have to obtain the ERN?

It is now the responsibility of ELTO to obtain the ERN for member firms, following a change in the Regulatory ICOBS rules, 8.4, by the Financial Conduct Authority (FCA), in December 2023. You are now only required to supply an ERN to ELTO if it is supplied to you in the course of acting for a client. You do not need to actively follow up and obtain missing ERNs.

ERN guidance

Is it mandatory for subsidiary companies/records to have an ERN?

'ERN exempt' refers only to companies that legitimately do not operate a PAYE scheme and therefore have no ERN. The subsidiary company may have a different ERN to the parent company depending on the employer set-up.

Are changes made to ERNs?

No retrospective changes are made to an employer's ERN. Therefore, even if the employer is taken over, ceases trading or moves tax office, the ERN for a specific point of time is permanent.

What is the HMRC employment history schedule?

This is a list of an individual's employers (past and present) with the dates of employment. This data is drawn from the National Insurance Contributions Office (NICO) database which is linked to the PAYE database. HMRC now includes the ERNs in its responses to employee requests for their employment schedule, where available.

Some companies have more than one ERN – how is this being handled?

Multiple ERNs are only likely to be a feature of larger corporate companies. In these instances, brokers should provide details of all ERNs for an insured. Where electronic trading platforms are being used, then only one ERN is capable of being captured.



In this case the 'most relevant' ERN should be provided; this being the one that covers the majority of the company's employees.

Note: The ERN is not to be confused with HMRC's Accounts Office Reference. The Accounts Office Reference Number is the reference used by an employer when making payments to HMRC and is often mistaken for the ERN. This is a common misunderstanding as the numbers are similar and often appear together on relevant documents such as the P45, P60, P11/D and on payslips. Both numbers usually begin with the same three digits representing the tax office in whose catchment area the employer falls.

Policy records on the Employers' Liability database (ELD) – what is required?

Quick reference checklist to submitting EL data:



Master policy number (MPN)



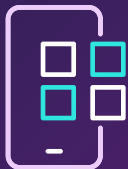
Broker reference
(when a delegated authority is supplying data directly to the ELD)



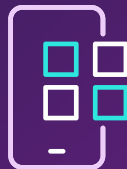
Policyholder name



Employer name



Cover start date



Cover end date



Address details



EL Policy purchased through an intermediary
(including schemes, EL as part of a package policy or as a standalone policy)



Insurers and brokers acting on the behalf of an insurer have 90 days to supply data from effective ERN date

(should they happen to be received)



ELTO



Capture of all subsidiary company names



ERN for new and renewed records, including subsidiary records
(if they happen to be received)



Records are not required for a company's additional branch and risk addresses

ELD submission guidance

What are the timescales for insurers and brokers acting on the behalf of an insurer to submit this data to the ELD?

FCA rules require all mandatory policy data relating to all insured employers to be fully and properly loaded onto the ELD within 90 days of the effective date (eg cover start date for new business/renewals).

Policy records on the Employers' Liability Database (ELD) – what is required?

- New/renewed EL policies with an inception date on/after 1 April 2011.
- Policies in relation to which a claim is made on or after 1 April 2011.

What happens if I don't have an ERN?

We are aware that it's not always possible to obtain an ERN, however ELTO will use its best endeavours to obtain the ERN on your behalf. Please refer to the checklist on page 6 and provide the data requested within the agreed timeframe.

What format do we need to use for supplying data to insurers? Can we develop our own format?

You must agree with your insurers as to what format should be used. If you operate a DA arrangement or an MGA facility on behalf of an insurer or insurers, the insurers concerned will discuss with you the best way of supplying all the relevant information.



Frequently asked questions

Why do I have to collect this data?

The FCA published regulations in 2011, under ICOBS 8.4, making it mandatory for insurers to publish employers' liability data. In order for insurers to comply with the regulations broker support is essential in capturing and supplying mandatory policy information.

What lines of EL business need to be advised to the Employers' Liability Database (ELD)?

Insurers and brokers will need to provide data on all commercial lines policies with an in-force EL section of cover taken out by employers, unless the FCA specifically exempts it.

Are brokers and delegated authorities required to be ELTO Members?

Brokers and delegated authorities are not required to be Members of ELTO.

Are brokers and delegated authorities required to supply the Companies House Reference Number (CHRN)?

The CHRN is the employer's number provided by the Registrar of Companies. ELTO utilises a facility which searches data downloaded from Companies House so that its members do not need to capture this information. Insurers who are not Members of ELTO may, however, request the CHRN from brokers and delegated authorities.

Can we supply data directly to the ELD?

In most instances, you will only be supplying data to insurers. In some instances, insurers and ELTO may agree

for you to send data directly to the ELD. This is likely to be reserved for certain delegated authority arrangements and will need to be discussed with individual insurers in the first instance.

Do all EL insurers require this information?

All insurers that transact EL insurance are regulated by the FCA and are therefore required to comply with the latest FCA regulations. As a result, brokers can expect all EL insurers to be asking for this information. The FCA regulations do not compel all EL insurers to be a Member of ELTO but do require EL data to be published in a searchable format. ELTO Members comprise over 99% of annual EL GWP. An insurer that is not an ELTO Member will require brokers to collect the same information. Brokers are encouraged to communicate with their underwriting insurers to understand their requirements.

What is the mandatory information required?

All commercial lines EL policies, regardless of whether the business was written through a broker, scheme, or a delegated authority, must be supplied to the relevant insurer as soon as the information is available to allow the insurer to upload the details to the ELD within the regulatory timescale of 90 days.

Further support

If you have any questions, please contact your insurer in the first instance who will forward your query to the dedicated account management team if they are unable to help.

ELTO Employers' Liability
Tracing Office

www.elto.org.uk

Disclaimer: The notes and information in this guide are for general information purposes only . Please note that they are not a comprehensive or complete account of the FCA's regulations regarding EL insurance and insurers' obligations to ELTO which can be accessed at <https://www.handbook.fca.org.uk/handbook/ICOB5/8/4.html>

Brokers and other interested parties should not rely on the comments or details of this guide for ensuring compliance with their regulatory obligations and should always consult the FCA regulations (and other applicable rules and regulations as appropriate) to be sure that all their regulatory obligations are being met.