



Liability.

**Adrian Foster
vrs Vericclaim.**



Introductions

CILA Certificate Learning Material (CLM) - It's actually quite good !.

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) - s.44

Think little - Big Solution

A “complex” claim is just a lot of small problems.



Legal Liability

Statute - Duties imposed by society.

Contract - Express agreement between two parties.

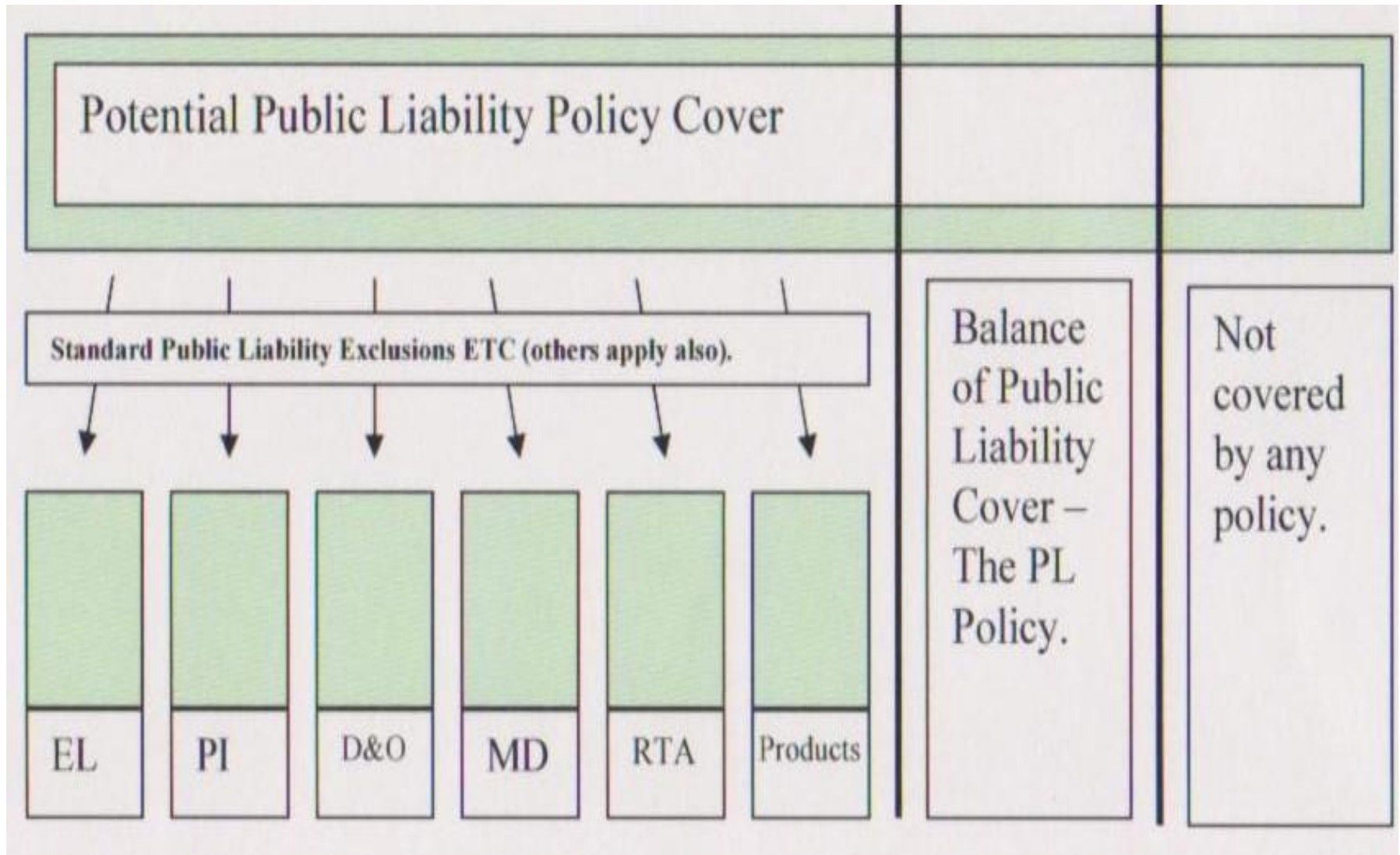
Tort - Common law duties. Generally common sense -

Groves v Wimbourne [1898] 2 QB 402 to the effect that a civil liability would be imposed where the legislation was for the prevention of personal injury.

Always ask yourself,

Legal Liability - Does a liability attach in law and how ?

Policy Liability - Does the policy provide an indemnity ?



Negligence.

- That a duty of care was owed to the person suffering the loss,
- That there was a breach of that duty of care,
- That damage resulted from the breach of the duty (causation).

E.G. The Insured is employed to trace cables on a brown field building site and an excavator driver employed by a sub-sub-contractor of the client then hits an unidentified cable.

Defences - In General.

- Public Policy.
- Contributory Negligence.
- Volenti Non Fit Injuria.
- Contributory Negligence.
- Limitation.

- Nuisance.
- Rylands V Fletcher [1868] - See *Mark Stannard v Wyvern Tyres* [2012] EWCA 1248.
- Fire & Fire Prevention Metropolis Act 1774.
- Contract.
 - Capacity.
 - Offer & Acceptance (Implied Terms of Contract).
 - Intention.
 - Consideration Contributory Negligence.



Subrogation.

- **Castellain v Preston [1883].**
- **Excesses & Underinsurance.**
- **King v Victoria Insurance Co Ltd [1886].**
- **Brit Inns [2012]**

Personal Injury Damages.

- General Damages.
- Special Damages.
- CRU.
- NHS Charges.



Civil Procedure Rules.

- CPR.
- Protocols - These are important.
- Early exchange of information.
- Disclosure.

Civil Procedure Rules.

- Expert Witnesses.
- Part 36 & ‘Calderbank’ Offers.
- Claims Handling & Costs - **This is very important.**
- My conclusion, audits and having fun !!!.