

*Bradshaw
Bennett*

COVERNOTES

Spring 2009

HOW TO GET THE BEST FROM YOUR INSURANCE BROKER -IN A RECESSION

In a difficult economic climate, it is more important than ever to ensure you have the right insurance cover at the best possible price. As your broker, it is our job to help you achieve this. By working with you to gain an in-depth understanding of your business, we provide a conduit to leading insurers, helping them to understand the risks facing your business and your business's risk management.

Our view of your business should cover your future plans, along with any short-term changes you are making. In current times, this may often include new activity to generate additional revenue or improve business efficiencies. If you are considering any such changes, please contact us at an early stage to discuss the insurance implications, which will help us do a thorough job.

Your attitude to risk management is important to insurers, so please provide us with as much information as possible. Good management, risk awareness and robust health and safety procedures can go a long way towards boosting your company's risk profile and reducing premium costs.

Now may also be a good time to consider long-term deals with insurers. These can remove some of the uncertainty of premium costs, giving you some budget stability. We can talk through the benefits and terms of such arrangements.

In difficult financial times, some companies may consider cutting back on their insurance. Whilst you might be able to cut costs by cutting cover, providing a short-term financial gain, it may result in a disadvantage longer term. If a loss occurs, it is important that your insurance responds to enable you to get back to business as soon as possible, with minimum financial outlay and disruption to your business.

We want to be able to support your growth plans in all economic climates. If you would like to discuss how we can help you with your insurances, please contact us.

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BEWARE

The first wave of UK Photo Driving Licences are set to expire this year. The licences, which were first issued in 1998, are only valid for 10 years. Drivers who fail to pay the £17.50 fee and renew their licence could face prosecution and a £1000 fine.





EMPLOYERS LIABILITY

-CHANGES TO THE REGULATORY FRAMEWORK

The regulatory framework governing Employers' Liability insurance certificates has changed. Under the new regulations* which came into effect on 1 October 2008, the requirement for employers to retain copies of their Employers Liability (EL) certificates for 40 years has been removed. Further, whilst employers are still legally required to display their EL certificate in each place of business, under the 2008 Regulations this requirement is satisfied if the certificate is made available in electronic form and each employee to whom it relates has reasonable access to it.

The requirement for employers to retain their EL certificates for a 40-year period was originally introduced because it was felt that there was a need to cement in legislation employers' responsibility to keep records of their employers' liability insurers. However, because it could not be effectively enforced, the Government have removed the requirement.

This change in legislation should not, however, result in any slippage in your business's current practice relating to the retention of EL Certificates. Given the long tail nature and latency periods of some occupational diseases, you are strongly encouraged to retain a record of your EL insurance history as far back as possible and keep that information alongside current data. The same principle applies should you acquire other businesses. It remains in the employer's best interests to retain insurance information because if no records can be found, it is the employer who will be responsible for payment of the claim.

For further information on the Employers' Liability Regulations 2008 visit www.dwp.gov.uk

*Employers' Liability (Compulsory Insurance) (Amendment) Regulations 2008

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BUSINESS TRAVEL

-IN TURBULENT TIMES

We live in turbulent times, with events around the world bringing in to focus the dangers and problems that can sometimes occur when travelling abroad. The terrorist attacks in Mumbai and the closure of Thai airports by anti-government protesters are just two recent examples. Stranded travellers find themselves caught up in a situation with no idea of how and when they will get home.

Medical treatment, emergency travel expenses, as well as flight delays and cancellations, are just a few of the costs that companies can face when their employees are on business trips. The extent to which these additional expenses are covered under a business travel insurance policy does vary among insurers. The occupation of Bangkok airport was widely regarded as a serious incident of 'civil commotion', which is excluded under some travel insurance policies. Further, a number of travel policies contain restrictions in respect of claims arising from acts of terrorism. As such, when you are buying business travel insurance, you might want to check the level of cover provided under the policy for terrorism and civil commotion.

It is important to be aware that some countries are considered by travel insurers to be higher risk destinations. When buying business travel insurance, you are asked to provide the insurer with details of your employees' anticipated travel pattern for the duration of the policy. This information enables the insurer to decide whether they want to provide cover and if so, at what cost. To avoid an unnecessary dispute in the event of a claim, ensure that you provide full travel pattern details at the outset and if further destinations are added, it is advisable to notify the insurer in advance of the trip.

Before allowing an employee to travel, it is also wise to consult the travel advice section of the Foreign and Commonwealth (FCO) website (www.fco.gov.uk). Be aware that some travel policies do not provide cover if an employee travels to an area to which the FCO advise against 'all travel' to or consider it to be a dangerous area.

If you would like to learn more about the travel insurance policies available to you and your employees, please contact us.



FIRST LANDLORD JAILED OVER FIRE SAFETY

A residential landlord has been sent to prison for four months in the first custodial sentence to be given under the new fire safety regulations. His company, Watchacre Properties Limited, was also fined £21,000 following conviction for serious breaches of the Regulatory Reform Order (RRO). The legislation came into effect on 1 October 2006 and makes businesses responsible for carrying out a self assessment of the fire risks in their premises, appointing a competent person and making staff aware of what they have to do in the event of a fire.

PROTECTING THE MANAGEMENT

Against a backdrop of difficult economic conditions in an increasingly litigious society, there has never been a greater need for U.K. companies and their directors to have suitable protection from legal actions brought against them.

With many employers being forced to downsize in recent months, leading UK Insurer Hiscox has experienced a sharp rise in claims on its policies made by redundant employees for unfair dismissal or discrimination. This trend is expected to continue throughout 2009. With alternative employment hard to come by, more ex-employees are taking the legal route to resolve their issues, perhaps taking the view that they have nothing to lose by taking their former employer to tribunal.

Last year ACAS saw an increase of 25% in the number of employment tribunals and claims that were passed to them for conciliation*

Increased protection for employees in the shape of recent regulation has further increased the risk of experiencing legal action, even for the smallest employer. These regulations include the Corporate Manslaughter Act, greater maternity and paternity rights and laws forbidding discrimination on the grounds of age, religion or sexual orientation. Further, many companies are not aware of their vicarious

liability for the actions of their employees; an 'off the cuff' remark made by an employee, even in apparent jest, can lead to a company facing expensive legal action, potentially paying a six figure award if its defence is unsuccessful.

IS YOUR COMPANY PROTECTED?

Standard Directors and Officers' insurance will cover individual directors and officers against many forms of action. However, this may no longer be sufficient to protect companies against new and changing laws. In addition, some policies will respond only when the insurer believes they have a high chance of winning the case. This means that at the very time you need it most, the cover may not be available, leading to costly and unforeseen expenses.

Policy wordings are now available that will offer you protection even if the employee's case is strong. Management Liability products offer comprehensive protection for UK companies and business owners, including cover to protect against actions from employees and regulators, plus many other areas of potential legal action including shareholder disputes, taxation claims, pollution claims and breach of data protection rules.

Please contact us to discuss your current cover and options available to you.

* ACAS Annual report 2007, © ACAS 2008

IN AT THE DEEP END

Whatever its cause, flooding is often one of the most devastating events to hit a business. Companies in flood prone areas should look at adopting strategies to help minimise its effects. Here are some free or low cost tips you can follow to help reduce the impact of a flood on your business:

- Have a Business Continuity Plan that addresses the risk of flooding
- Instigate basic flood training for employees
- In the event of a flood warning, move important equipment and stock above the potential flood level and evacuate vehicles to higher ground
- Copy vital paper and electronic records and store elsewhere
- Secure equipment that could move or fall during a flood
- Install back flow valves on toilets and drains
- Raise electrical sockets above the potential flood level
- Raise machinery on platforms above potential flood level
- Move computer servers permanently away from ground floor level

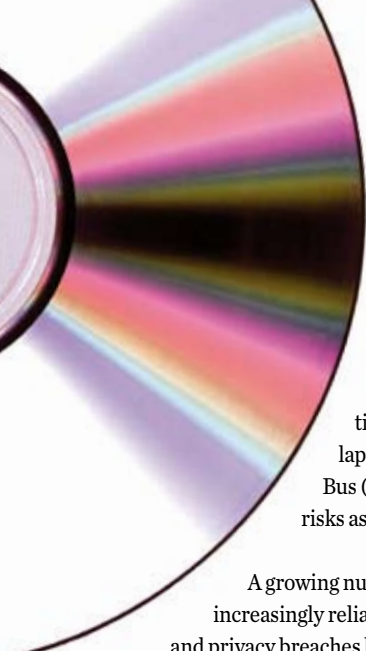
If the worst happens and your premises do flood, a few basic actions may speed up the processing of your insurance claim and reduce business downtime:

- Secure your property to prevent further loss or damage
- Get advice from your broker, insurer and loss adjuster on recommended repairers
- To assist insurers with your claim, note:
 - Time of warning
 - Time water entered
 - Maximum water depth
 - How long water was in premises
 - Presence of any contaminants (sewage, etc)
- Keep track of all related losses and expenditure
- Do not destroy damaged items without first checking with your insurer
- Document losses with photographs or video

Finally, remember that a flooded building is a dangerous place and take extra precautions. In particular, watch out for gas and electrical hazards, trips and slips on slippery surfaces, water pollution and structural damage such as saturated ceilings and wall liners.

Let's all hope it doesn't happen to your business, but if it does then it is better to be prepared!





LOST DATA

Reports of people's personal details being compromised by government agencies, retailers, educational and financial institutions, and internet businesses have become all too common in recent times. These incidents, often involving lost or stolen laptop computers, computer disks, and Universal Serial Bus (USB) memory sticks, have heightened awareness of the risks associated with holding customers' data.

A growing number of companies collect personal data and are increasingly reliant on digital assets, placing prevention of security and privacy breaches high on the agenda. Unfortunately, costs for lost data may go beyond what is covered under your professional indemnity insurance; other costs may include data recovery and mailing fees for notifications of data breaches. Further, a breach of security can also seriously damage a company's image, meaning that services to reduce reputational damage such as hiring a PR Firm or providing free or discounted services for those affected might be necessary. Whilst insurance is available to mitigate some of these threats, the key to combating these risks to your business is sound risk management.

To protect your business's reputation you should continually review your procedures for handling both your and your client's sensitive data. Some steps you can take include:

- Developing operational and procedural guidelines to support security policies and standards
- Regular staff training to ensure employees are familiar with security procedures and their responsibilities to help protect your company's data and reputation
- Ensuring all laptops are secured with proprietary encryption technology to prevent the loss of information in the event of accidental loss of the equipment
- Using secure USB memory sticks only
- When emailing sensitive client data externally, ensure the emails are secured using a proprietary encryption service
- Having a formal process for updating software, firewalls and anti-virus programmes regularly and promptly
- Having in place a tried and tested crisis management plan which can be implemented as soon as a potential security breach is detected

Whilst effective risk management remains key, having cyber insurance can be a significant benefit for companies involved in a security breach. As well as covering many of the major costs, insurers have the resources to advise a company on what they need to do and have expert contacts to handle the situation appropriately.

For further information, please contact us.

This newsletter contains a general overview of the U.K. insurance market based on our understanding as insurance brokers and risk consultants. It is not intended that it be used, and should not be used, to replace specific advice relating to individual situations. In particular, we do not offer either legal or accounting advice.

Whilst we endeavour to provide accurate and up to date information, we cannot guarantee this and you should not rely on the information contained in this newsletter without seeking further more detailed advice to suit your particular needs.

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COMMON SENSE PREVAILS

-JENNIFER HUNT V THE CHAPTER OF RIPON CATHEDRAL

A visitor to Ripon Cathedral injured her ankle when stepping in a depression on a step leading to the Crypt. The visitor took the Cathedral to court to claim for damages but the judge ruled in favour of the Cathedral finding them not liable. This has been hailed as a victory for common sense over a growing compensation and blame culture!

Under section 2 of the Occupiers' Liability Act 1957, owners of any building must take reasonable care to protect visitors. The court ruled that the Cathedral had fulfilled its responsibility in this respect and threw out the case.

David Bonehill, claims and risk services director at specialist insurer Ecclesiastical, said: "The court has recognised two simple things. Firstly, that accidents can happen and sometimes no-one is to blame.

Secondly, that heritage buildings can't be treated like modern buildings. They are bound to have uneven floors and walls and it is reasonable to expect people to take a little more care when they are visiting them."

All reasonable care and risk management precautions were taken by the Cathedral, which helped them to secure a safe environment for visitors and a successful trip to court.



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