

Everyone will now be aware of the potential Swine Flu epidemic. In this bulletin we identify the key Risk Management considerations and how your insurance programme might respond.

It is important to maintain a sense of proportion. The decision by the World Health Organisation (WHO) to raise the threat level to 5, the most extreme being 6, theoretically means that a pandemic is imminent. To quote the London Daily Telegraph today, *“It is a reflection of the fact that the virus is no longer containable and is being passed among people who were not exposed to the original source in Mexico. That is all it means. How virulent the strain of flu will be is unknown; most of the victims outside of Mexico appear to have contracted a mild form of the disease which is treatable with antiviral drugs.”*

You should be aware that in a normal year 250,000 to 500,000 people die of the flu¹. It is likely that the virus will go into hibernation only to reappear in a more serious form in the winter; which is what happened in 1968. This suggests that our clients need to consider a measured response but plan for a more serious outbreak at the end of this year.

RISK MANAGEMENT RESPONSE

All organisations should be considering invoking their crisis plan and convening meetings of the crisis committee. Some of your key considerations are:

COMMUNICATIONS

- Good communication is vital at this stage. Decisions must be consistent, clear and concise so that all your staff understand what is expected of them.
- If you have not done so recently, you should urgently review access to IT systems for remote workers.
- This event is a good reminder that it is a very good time to check that all your employees' contact details are up to date. More specifically, all members of your senior and crisis management teams should have full contact details of their colleagues both on their mobile phones and at home.

STAFF

- You should, as part of your contingency planning, already have identified those staff who are critical to maintain the minimum level of service necessary to stay in business.
- How many staff you need to be present in the work environment will again depend on the nature of your business. Bear in mind that your customers will be just as affected as yourselves – therefore it may not be necessary to have the normal number of staff in attendance.

- Identify who your key workers are and ensure that those that can work from home have the facility to do so, if necessary.

HEALTH & SAFETY AND INFECTION CONTROL

There is plenty of advice available from the government and NHS communications with regard to infection control; we do not intend to repeat it here.

Your actions have to be proportionate to the role your organisation plays in the wider community and how essential your services and key workers are. As we previously said in our introduction, a sense of proportion is important.



TRAVEL

- You need to think pragmatically about the need for international air travel, particularly to areas of higher than normal infection rates. Open discussion should be held with staff to ensure that they are aware of the risks and are willing to travel.
- You should take medical advice to find out whether your staff need to take preventative antivirals, or carry the drugs with them.

CRISIS MANAGEMENT

Your Crisis team should review developments at least every day and update instructions to staff as events unfold. Unlike a fire, flood or explosion, pandemic illness affects not only your company but also your customers and competitors.

If the level of your service to customers begins to fall below the acceptable minimum, you should consider appropriate communication with your customers and suppliers.

Presumably, you would have prepared a response to H5N1 (Avian Flu). This will provide you with exactly the same framework required for your response to Swine Flu.

¹ World Health Organisation, Influenza Media Centre Factsheet, Global Figures

INSURANCE COVER RESPONSE

The following table summarises the general position on those relevant classes of insurance. The actual position may vary depending upon the terms and conditions of your individual policy wordings. Please contact your Willis service team for more information.

CLASS OF INSURANCE	COVER POSITION	COMMENTS
Business Interruption (BI) without a Contagious & Infectious Human Disease Extension	No	Extensions not normally included as standard
BI with a Contagious & Infectious Human Disease Extension	A) Specified Disease Basis - no B) Competent Authority – unclear	*See below
Business Travel	Yes	Emergency Medical Expenses and Cancellation Cover, but not if travelling against official advice.
Cancellation & Abandonment	New policies and outstanding quotes – no cover Existing policies - varies	For existing policies, where the communicable disease exclusion has been deleted, the policy should be triggered, as long as the cancellation or abandonment is on the instructions of the appropriate authority, and beyond your control.
D&O	Yes	Excludes direct claims for bodily injury, but would cover indirect claims from shareholders arising from mismanagement. May also cover costs of defending health and safety claims against the management
Employers Liability	Yes	Legal liability for death/illness
Property Insurance	No	Decontamination etc not covered
Public & Products Liability	Yes	Legal liability for death/illness (insurers might conceivably try and invoke contamination exclusion – this would be very unfair)

*BI with a Contagious & Infectious Human Disease Extension

These extensions are not normally included as standard. They are often subject to sub or aggregated limits and shorter maximum indemnity periods, typically 3 months.

Where the extension is on a specified disease basis, typically influenza will **not** be one of the specified diseases that generally follow the list of 30 or so diseases set out in the Public Health (Infectious Diseases) Regulations 1988. Therefore there is no cover.

However some extensions use words such as “a human infectious or contagious disease which a competent authority has specified shall be notified to them”. Whilst influenza is not included in the above mentioned regulations there are a number of possible arguments that might be used to widen out the list of diseases that are notifiable, including perhaps swine flu, but the position is not clear. Where the extension applies outside the UK, then cover will depend upon the notification requirements in each territory.

It should be noted that these extensions require an outbreak (or sometimes an occurrence) of the Notifiable Disease at the Premises (or within 25 miles with the wider wordings). This may be difficult to prove and in the event of a pandemic the extensions are unlikely to respond due to a general voluntary or compulsory restriction in movement of humans.

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MORE INFORMATION

- BBC Updates <http://news.bbc.co.uk/>
- WHO Homepage <http://www.who.int/en/>
- Centre For Disease Control <http://www.cdc.gov/>

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