Covernotes

Coronavirus Highlights Need to Understand Your Insurance Cover

Reported cases of Coronavirus (COVID-19), first reported in Wuhan, China on December 31 2019, have reached pandemic levels, with 48,010 laboratory confirmed cases detected in 25 countries as of February 14 2020, and 1383 deaths[1]. But it is the epicentre of the outbreak, in China and Hubei province in particular, which is affecting not just human health but global trade too.

China is a world manufacturing leader and global supply chains are often reliant on products or components coming out of the country. Factories across China remained closed in mid-February[2], with workers not allowed to return from Chinese New Year holidays, as a virus containment strategy by the Chinese government.

Production of everything from car parts to hockey sticks[3] was already affected by mid-February. Big names such as Nissan and Apple had seen supply chains disrupted, while major trade shows were cancelled. Meanwhile, the world's travel market has took a hit, with a ban on tour groups leaving China. In 2019, Chinese visitors made 150m trips and, in 2018, spent $130bn[4]. Chinese visitors to the UK numbered 391,000 in 2018[5]. The belief is that the impact of Coronavirus on world travel will last a year, leaving numerous UK hotels short on their bed-nights filled projections.

With so many different sectors affected by what the World Health Organisation has described as a global health emergency[6], many businesses will be wondering what insurance, if any, they have in place to cover supply chain disruption, possible impacts on their overseas markets and more. Those with Business Interruption (BI) insurance may believe they are entitled to make a claim but that may not be so.

Many BI policies require physical damage of assets to have occurred – the "material damage proviso" - before they will consider a claim. Health and injury to people is not generally considered a valid reason for a claim. Additionally, any policy bought in the UK may have a territorial limit and not apply to China or other overseas countries affected. Whilst the costs of flight cancellations to and from China, or hotel rooms and other travel expenses, may be picked up by a travel insurance policy, the eligibility of a claim made under a BI policy may well be uncertain.

BI policyholders would be wise to liaise with their broker and assess exactly what can be claimed and what cannot. There could be a Notifiable Infectious Disease exclusion in the policy and, whether or not a claim can be made, may be a matter of assessing whether the loss occurred before Coronavirus became a notifiable disease. Since the SARS outbreak in 2003, various policies have excluded diseases as the basis for a legitimate claim[7].

The picture is complicated, as the world, and China, seeks to react to this unanticipated outbreak of a previously unknown disease. The longer the outbreak continues, the bigger the

[1]http://who.maps.arcgis.com/apps/opsdashboard/index.html#/c88e37cfc43b4ed3baf977d77e4a0667 [2]https://www.bbc.co.uk/news/business-51439400
[3]https://www.theglobeandmail.com/sports/hockey/article-chinas-manufacturing-shutdown-has-nhl-players-strapped-for-sticks/
[4]Coronavirus hits global tourism industry as Chinese stay at home: Financial Times, February 13 2020 [5]https://www.statista.com/statistics/515789/chinese-tourist-visits-to-the-united-kingdom-uk/
[6]https://www.bbc.co.uk/news/world-51318246 [7]https://www.reuters.com/article/us-china-health-insurance/many-global-firms-excluded-from-epidemic-insurance-face-heavy-coronavirus-costs-idUSKBN1ZS1CU

impact on the supply chain will be, with sectors such as tourism, transport, pharmaceuticals, electronics and luxury goods all hit, to name but a few[8].

Some businesses may need to find alternate suppliers[9] or change product lines. Others may find themselves without anticipated orders or payments, with impacts on trade and cash flow. Again, a broker would need to advise a client holding Trade Credit Insurance, whether or not that could assist with payment issues resulting from Coronavirus.

The incident outlines the need for a business to understand the covers they buy as protection, rather than assuming they will be covered for situations that occur in the trading world. There are BI policies that will provide cover on a wider basis than most and which do not require the insured's assets to have been damaged[10]. A broker is well-placed to guide businesses through the insurance terminology, crystallising what they are and are not buying and explaining the exposures that could occur, of which a client may not be aware.

The advice at present is to review any policies in place, seek expert help, consider buying protection that could provide assistance going forward and to review any contracts held with suppliers or customers, to assess who is legally bound to do what. Until an end to Coronavirus is in sight, this will be an advisable route for businesses to take.

Few Clad Tidings for Firms Seeking Professional Indemnity Cover

ACM (aluminium composite material) is an acronym of huge concern to insurers covering risks in the UK design and construction sectors. This type of cladding, deemed responsible for the rapid spread of fire in the Grenfell Tower tragedy and made with an aluminium skin and polyethylene core, could be viewed as having given all cladding a bad name as far as the insurance markets are concerned. The appetite for insurers to provide relevant covers is not a keen one.

Construction professionals working, or having worked on buildings carrying cladding, façades or rain-screens, are struggling to buy the Professional Indemnity insurance they require.

Even those not handling cladding projects are having to demonstrate their lack of involvement in such projects in time-consuming ways and then typically paying an inflated price for their insurance policy, if cover is offered. Insurers are often demanding firms look back at past jobs as far back as 10 years ago, to reassure them that no claims could arise.

Some insurers are not differentiating between safe and unsafe cladding and are so nervous about insuring building-sector businesses, they have pulled out of the Professional Indemnity (PI) market altogether[11].

Others are limiting potential exposures by charging considerable premiums and applying high excesses[12], or specifically operating a blanket exclusion on claims relating to cladding or the supply of goods and products.

One insurer strategy is that of changing the basis of cover for construction risks involving cladding, offering a similar level of overall protection but spreading this across aggregated claims, rather than "any one claim" as was previously the case[13]. Designers and contractors can discover their previous civil liability cover is now negligence-only protection[14]. Another approach is that of not covering historical cladding projects involving buildings over 18m in height[15] or current or future high-rise projects.

The situation is not likely to improve for the foreseeable future and even steps to assist those dwelling in ACM-cladded buildings is turning the spotlight on to insurance covers. The Government has established an ACM Cladding Remediation Fund, to ensure ACM is quickly replaced on private residential buildings, having become tired of landlords and building owners not taking action.

Their advice to building owners is to actively "identify and pursue all reasonable claims" against those involved in the cladding installations, making warranty claims where possible." The

[8]https://www.theguardian.com/world/2020/feb/05/coronavirus-global-economy [9]https://www.maplecroft.com/insights/analysis/resumption-of-business-wont-ease-coronavirus-impact-on-global-supply-chains/
[10]https://mdd.com/forensic-accounting-articles/non-damage-business-interruption/
[11]https://www.insurancebusinessmag.com/au/news/professional-liability/professional-indemnity-sector-continues-to-harden-176920.aspx
[12]https://www.ceca.co.uk/ceca-pi-insurance-will-be-a-major-challenge-for-contractors-in-2020/
[13]https://www.insurancetimes.co.uk/corporate-insight/expert-view-the-changing-professional-indemnity-market-where-is-the-quality-cover/1430543.article
[14]https://www.willistowerswatson.com/en-GB/Insights/2019/03/uk-construction-professional-indemnity-market-update
[15]https://www.building.co.uk/news/call-for-clarity-on-building-regs-as-insurers-limit-cladding-work/5093513.article

Government then expects money from successful warranty claims to be paid back[16].

Some designers and contractors may believe it impossible to find PI cover. Our advice is for these individuals to source a broker with in-depth construction sector experience and liaise with that broker, several months before policy renewal, to create the best possible presentation of risk to put before an insurer.

If the previous insurer is still underwriting PI risks, they will need reassurances about possible exposures, through a detailed presentation of risk. This will require answering probing questions about former projects, detailing past claims and the reasons for them, being transparent about former contracts and contractual terms, and highlighting how risk is currently being mitigated.

Many insurers will be more inclined to say "no" to risks, current or new, and it will most likely take a lot of work and the input of a skilled broker to swing things and get a "yes" - and a 'yes" on reasonable terms. Put the time into helping your broker with their mission and steel yourself for the terms on which you may have to accept an offer of PI insurance.

> "Some insurers are not differentiating between safe and unsafe cladding"

How Brexit May Affect the FSCS's Scope

Britain's exit from the EU at 23.00 GMT on January 31 2020 has seen the country enter an 'implementation period', which will operate until December 31 2020. For now, therefore, the current rules over passporting – those rights that enable foreign banks and financial institutions to operate in the UK and their UK equivalents to operate in Europe – will remain unchanged.

However, those using EU banks and institutions in the UK, and taking out insurance from EU-based providers passporting in the UK, may need to keep a watchful eye on developments, to ensure their assets remain protected.

Under current law, the Financial Services Compensation Service (FSCS) offers a compensation service to the customers of financial institutions that have failed, including banks, insurance companies and mortgage providers. This means, for instance, that customers' bank balances are protected up to a value of £85,000 per eligible person, per bank, building society or credit union, if the institution failed after January 1, 2017.

The FSCS website highlights that it "may be able to pay compensation" if an insurance firm fails. However, as it says, for this to happen, the insurance firm must have been regulated by the Prudential Regulation Authority or have been an EEA authorised firm passporting into the UK. The insurance broker must have been regulated by the FCA.[17]

Previous failures that led to policyholders gaining compensation have included those of Latvian insurer, Balva AAS Insurance, (2014) and German insurer, Berliner Versicherung (BVAG), in November 2015.

For now, the FSCS statement says: "As a result of the implementation period, FSCS expects there will be no changes to the scope of its protection before 31 December 2020 resulting from the UK's exit from the EU."[18]

Despite this current reassurance, it will pay to keep an eye on the situation, where insurers are headquartered and the basis on which they are operating within the UK, as we head to January 1, 2021.

[16]https://www.law.ox.ac.uk/sites/files/oxlaw/41_david_pryce_slides.pdf
[17]https://www.fscs.org.uk/what-we-cover/insurance/
[18]https://www.fscs.org.uk/about-us/brexit/

Buy Travel Insurance to Cover Post-Brexit and Insolvency Situations

A fifth of Brits (21%) heading abroad in 2018 travelled without travel insurance, according to an ABTA survey in May 2019, despite the financial ramifications of an illness, injury or worse being significant[19]. This situation is by no means unusual but could Brexit and Thomas Cook's recent high-profile insolvency finally persuade UK holidaymakers that the risks are not worth taking?

Many British travellers to Europe may well have been over-reliant on their European Health Insurance Card (EHIC), believing it would pick up the cost of any required medical treatment whilst abroad. The reality is that the EHIC by no means covers everything and is only valid in certain countries. It also has a five-year lifespan, so unless it is current, it is of no use.

With full departure from the EU looming, nobody is too sure what will happen with regard to the reciprocal health arrangements that underpin the EHIC system. Martin Ashfield, board member of the CII's Society of Claims Professionals has said, "If the UK leaves without a deal, UK citizens cannot rely on the EHIC being valid."[20] Experts say the situation will entirely depend on negotiations between the UK and EU member states.

For those travellers that do buy travel insurance, post-Brexit travel may require a closer examination of the small print. The CII is warning that extra security checks at ferry ports or airports, could lead to lengthy delays, long enough to cause missed departure. Insured policyholders would be well-advised to check whether their policy would cover them, offering compensation for missed departure and delayed travel due to such security checks.

UK travellers are being advised that they need at least six months left on their passport before its expiry date, in order to travel to other countries. Those heading off on motoring holidays are urged to get a Green Card and apply a GB sticker to their vehicle.

But when it comes to safeguarding against the insolvency of a travel company, airline or agent through whom you have booked a trip, there is more work to do. Thomas Cook has been joined by names such as Zoom, XL.com, Monarch Airlines, Libra Holidays and several more operators in recent times, yet many popular travel insurance policies do not cover insolvency.

Package holidays are typically protected through the ATOL licence of the travel firm arranging them, which means those travelling can continue with their holiday, if their travel provider collapses, and be brought back to the UK. However, around 15% of Brits now travel independently[21] which rises to 60% of over-65s[22]. These travellers are not typically covered for operator insolvency, as policies tend to be written for specified risks and not all risks.

If you are travelling independently, it pays to examine your policy's small print and see if the cover includes Scheduled Airline Failure Insurance (SAFI). If it does not, it may be possible to ask to pay for an add-on that provides this cover.

Good advice, as always is to pay for your travel arrangements with a credit card, gaining some protection under the Consumer Credit Directive 2011.

With the cost of travel insurance predicted to rocket post-Brexit, we may come to see the demise of the 'packaged' travel insurance product, bought off the shelf. Travellers used to creating their own trips, may be more persuaded to do what already makes sense – working with a broker to fashion travel insurance cover that suits their individual trip and circumstances. Having SAFI built into this, along with cover for delays and missed departures, and having a broker ensure there are no holes in the medical protection overseas, could be the keen traveller's best policy

[19]https://www.moneywise.co.uk/news/2019-05-23%E2%80%8C%E2%80%8C/millions-brits-are-going-holiday-without-travel-insurance
[20]https://www.cii.co.uk/news-insight/media/press-releases/articles/brexits-impact-on-travel-insurance-revealed/90244
[21]https://www.theguardian.com/travel/2018/oct/09/solo-trips-on-rise-travellers-opt-for-me-time-abta-report [22]https://www.avantitravelinsurance.co.uk/mature-travel-trends

Do Strange Claims Incidents Reveal Step Towards Scottish Independence?

Insurance claims come in all shapes and size. While most are run-of-the-mill claims surrounding everyday occurrences, there is always the odd one, which stands out due to being beyond the pale or just absolutely crazy.

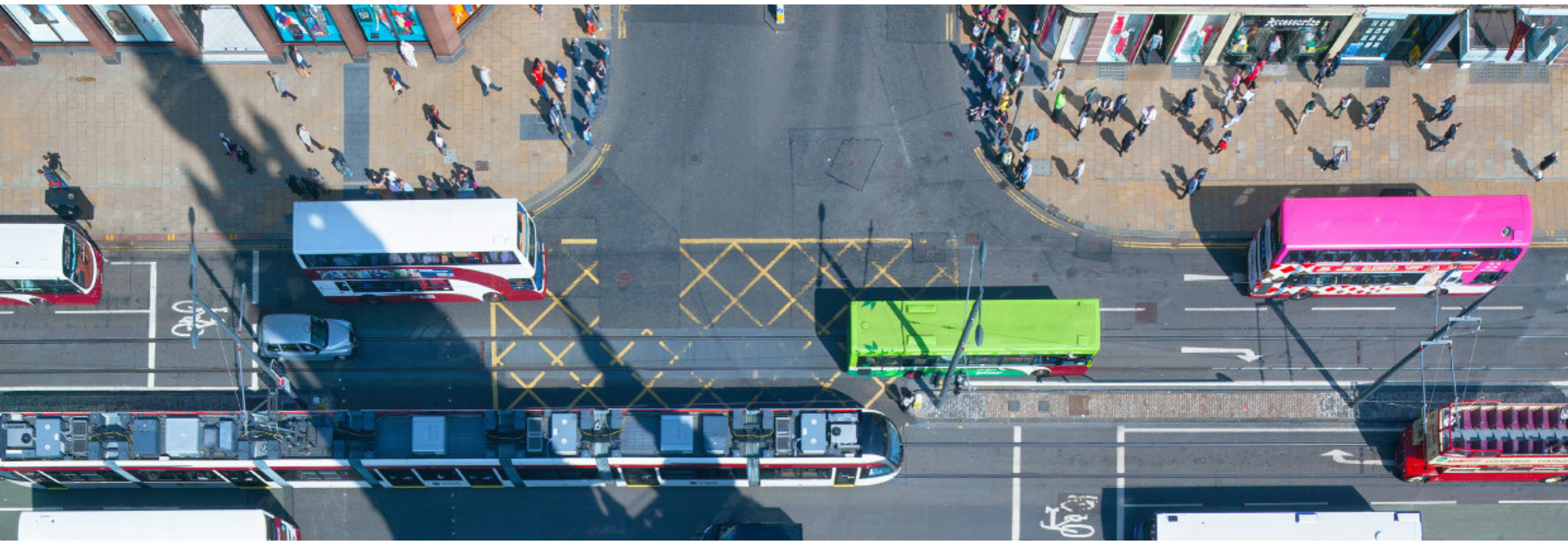
One of the leading insurers was keen to share some of its unusual claims for 2019, with a few tales of the unexpected in the mix[23]. Who would have thought that putting a lit sparkler into a dog poop bin would lead to a nearby furniture store being burnt to the ground? Who could ever have imagined that over 69 vehicles would find themselves cemented in situ, due to a concrete mixer getting a little bit out of control?

And, what about the claimant wanting a payout for repair to a damaged fallen unicorn? At first glance, this may have seemed a mythical beast of a claim but Googling 'fallen unicorn in London' does bring up an interesting little story from October 2019.

Apparently, a delivery truck was audacious enough to collide with the gates at Buckingham Palace, managing to severely damage a unicorn in the process. The poor creature, which represented Scotland in the Royal Coat of Arms, was left in bits, with garlands and chains scattered on the ground all around him. Meanwhile, the mighty Lion, representing England, soldiered on, clinging to the gate without its Scottish counterpart.

A Scottish wit, keen to take to Twitter, claimed this made Scotland legally independent[24]. Perhaps, therefore, the full details of the claim made for very interesting reading, particularly if one Ms N Sturgeon was at the wheel at the time the century-old ceremonial centrepiece was smashed apart!

[23]https://youtalk-insurance.com/news/allianz-insurance-plc/allianz-reveals-its-unusual-claims-for-2019
[24]https://www.scotsman.com/news/people/scottish-unicorn-knocked-off-buckingham-palace-gates-by-delivery-lorry-1-5016432



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