



INSURANCE & RISK MANAGEMENT

COVERNOTES

Winter 2012

CALL FOR BUSINESSES TO DO MORE TO PREVENT LEGIONELLA OUTBREAKS

A microscopic view of legionella bacteria, showing numerous rod-shaped organisms in shades of blue and green, clustered together.

Back in July, the Health and Safety Executive (HSE) issued a directive advising businesses that they needed to 'do more to protect workers and members of the public from exposure to legionella'. The advice followed a number of high profile cases of Legionnaires' disease including an outbreak in Edinburgh during May and June relating to a cluster of cooling towers, which was reported to have affected 95 people. Despite the HSE's notice, legionella outbreaks continue to hit the news with a hot tub in Fenton believed to be the cause of an outbreak in Stoke-on-Trent, which led to 21 cases and two deaths.

Named after an outbreak of severe pneumonia which hit a meeting of the American Legion in 1976, Legionnaires' disease is the most serious strain from a group of diseases known as legionellosis. The infection is spread by breathing in small droplets of water which are contaminated with the legionella bacterium. While it can affect anybody, certain groups like the elderly or those with existing medical problems such as chest problems, are particularly at risk. Common in natural water sources such as rivers and reservoirs, legionella bacteria can also be found in man-made water systems such as cooling towers, hot and cold water systems and spa pools/hot tubs.

Any size business could be exposed

The Stoke outbreak has raised particular concerns for smaller businesses because of its origins from an infected hot tub on display at a retail outlet, meaning any business that has some form of water system could be exposed and not just those bigger operations with cooling towers.

The HSE has issued a number of tips to help reduce the likelihood of your business experiencing a legionella outbreak*:

- Identify and assess sources of risk from your water system such as the potential for water droplets to be spread.
- Manage any risks by appointing someone either within your organisation or an outside consultancy to take responsibility.
- Prevent or control any risks by carrying out appropriate checks.
- Keep the correct records, including who is responsible for carrying out the checks (written records are compulsory for firms with more than five employees).
- Carry out any other statutory duties you may have such as notifying your local authority, in writing, if you have a cooling tower or evaporative condenser on site.

The consensus amongst insurers is that because legionella usually builds up over a period of time, it represents pollution or contamination. Most U.K. public/product liability policies contain an exclusion in respect of pollution and contamination, therefore legionella is often excluded under standard policies.

If your business has any form of hot and cold water system such as a spa pool, humidifier or even an indoor fountain, please contact us so we can review your insurance cover and check if a suitable extension is required to cover a possible legionella outbreak.

*www.hse.gov.uk

CONSTRUCTION HEALTH AND SAFETY: CAUSE FOR CONCERN

The government recently announced that there was to be a reduction in the number of planned health and safety inspections for many U.K. businesses such as shops, offices, pubs and clubs. It also made it clear that, in higher risk areas like construction, inspections would continue, reflecting an ongoing concern surrounding the sector's safety record.

Despite the recession and a downturn in construction levels, figures from the Health and Safety Executive (HSE) reveal that in 2010/11, 50 construction workers lost their lives – an increase on the previous year. In addition, 2298 major injuries were reported as well as the loss of 1.7 million working days through work related ill health*.

In turn, the HSE has reaffirmed its commitment to reducing the number of health and safety incidents by:

- Targeting at least a third of its inspections on small sites.
- Improving the availability and quality of health and safety information.
- The introduction of a 'Leadership and Worker Involvement' Toolkit to help small and medium sized businesses improve their health and safety performance.
- The introduction of a fee where HSE inspectors identify a material breach of the law.

A priority for any business working in construction is to ensure your risk management procedures are in place and up-to-date, with a robust health and safety policy.

Your Employers' Liability (EL) insurance is there to cover your business in the event of legal compensation claims (and the legal costs attached to this) made against you by your employees for accidents or illnesses. It will not pay any fines or penalties that could be due as a result of your business being found to have an unsafe working environment. Your Public Liability insurance provides similar cover for any members of the public on site and, as with your EL cover, you could be similarly liable to fines or penalties in the event your site is found to have health and safety failings.

If you are unsure about how best to meet your business's health and safety obligations, or just what your insurance covers, contact us for further information and guidance.

* www.hse.gov.uk

REDUCED COVER ON FLOOD RISK

Autumn, it seems, took over where a soaking wet summer left off. Late September saw many parts of Britain experience flooding with some regions experiencing a month's worth of rainfall in 24 hours.

As rain continues to fall on the already swollen rivers and lakes, the insurance industry can expect to see more losses on top of the £500 million the Association of British Insurers (ABI) said it was expecting its members to pay out to businesses and home owners following the wettest June on record*. All of which will further increase the uncertainty and speculation surrounding the government's existing Provision of Flood Insurance agreement with insurers, which is due to expire in 2013.

In 2008, the government and the ABI issued a Revised Statement of Principles on the Provision of Flood Insurance. The statement sought to underline the commitment of the insurance industry to continue to "make flood insurance for domestic properties and small businesses available if the flood risk is not significant," as well as continuing to "offer flood cover to existing... customers at significant flood risk, providing the Environment Agency has announced plans... to reduce the risk for those customers within five years."

Investment in flood defences

The agreement was conditional upon a continual investment in flood defences yet, in real terms, the funds available have not kept pace with the perceived need. The Guardian newspaper's analysis of figures from the Environment Agency reveal that some 294 flood defence projects which had agreed funding in 2010, had actually

received no money at all. Despite an announcement by the Department of Environment and Rural Affairs in July 2012 that said, "we are continuing to make progress towards a new agreement on the future of flood insurance," the two sides are still far apart and there is a real prospect that the agreement will end, resulting in a free market which will almost certainly reduce cover for risks in the worst affected areas.

Each insurer uses environment agency information (maps of which are available at: <http://www.environment-agency.gov.uk/homeandleisure>), as well as its own data, to profile your business's flood risk and agree the terms for your insurance cover. As your broker, we will work with insurers on your behalf to present your business's risk in order to get you the most appropriate cover and price. Should the worst happen and no agreement be reached, you can be assured we are working on your behalf.

* www.abi.org.uk

∴ The Provision Of Flood Insurance agreement is due to expire in 2013.

BE AWARE OF WARRANTIES



Imagine this scenario - a welding contractor arrived to do some work in a client's processing plant. The client, who used this contractor regularly, had imposed their own hot work procedures and was satisfied with the safety precautions taken by the contractor. Unfortunately, a serious fire occurred which the client alleged had been caused by the contractor's negligence.

At least the contractor could turn to their insurance policy. Or could they? Their insurer denied liability on the grounds that the contractor was in breach of a burning and welding warranty under their policy; the warranty required that all combustible materials in the immediate vicinity of the work that could not be moved had to be covered and protected by non-combustible material. Interestingly in this case, the court found the contractor was not liable as they had taken all reasonable care and the damage was not reasonably foreseeable, but the court also ruled that the contractor's insurers would not have been liable due to the breach of warranty.

If a warranty is breached, the insurer's liability is discharged

Warranties placed on an insurance policy are a type of condition that require the policy holder to comply with an insurer's specific requirements and may apply in respect of maintenance of protections such as sprinkler systems or security alarms for example, or the storage of property off the ground and the protection of unoccupied property. If the warranty is breached, the insurer effectively activates the 'off switch' for the rest of the policy period and there is no further cover.

Further still, insurers can deny liability due to breach of a warranty even if that breach is nothing to do with the loss, arguing that the policy requires exact compliance and that any breach discharged the insurer from any further liability.

Know your warranties

Warranties can be complicated but it is vital that businesses are aware of any warranties in place that could invalidate a claim. It could mean the difference between a claim being paid or your company going out of business. Similarly, if a contractor is working on your premises, it's also important to ensure that they are complying with their warranties and conditions should they become liable for any damage or an accident.

Speak to us if you are unsure as to whether you have any warranties in place on your current policies and need further advice.

COVER YOUR COMPUTERS

- STANDARD CONTENTS INSURANCE MAY NOT BE ENOUGH

In the late 1940s, the boss of a major computer business was famously quoted as saying, "I think there is a world market for maybe five computers." That he was probably misquoted shouldn't disguise the fact that no one could have foreseen the growth of the computer market to an extent that there is now an estimated one billion computers in use worldwide.

Computer equipment and the accompanying software are now vitally important to the successful running of almost every business. As ingenious as they can be however, they are also vulnerable to disasters - of both the hi-tech (computer viruses) and low-tech sort (a spilt cup of coffee over a server) - that can seriously threaten the financial livelihood of a business.

Loss of computers - loss of data

Take for example the loss of computer hardware to an opportunist thief despite the absence of any sign of break-in; or the loss of a large amount of critical business data due to a third party contractor being unfamiliar with their client's working procedures and failing to retain secure back-ups. The threat could also just as likely come from an external source such as a corruption of stored data due to the failure of its firewall.

Having appropriate insurance in place should be a key part of your risk management strategy, making sure your business can continue to operate should anything happen to your computer equipment or the data you hold. Unfortunately many standard office contents insurance policies might not have the breadth of cover you need, while imposing warranties and conditions which would prevent them paying out in examples such as those mentioned above.

We can provide access to an exclusive computer business insurance policy which has few warranties and exclusions and will help to quickly get your business up and running again in the event of a loss. **Contact us for more information on business computer insurance.**

WHEN SNOW BUSINESS MEANS NO BUSINESS

The U.K.'s extreme winter of 2010/11 saw some £900 million in property damage insurance claims from December alone*. Whether from causes such as burst pipes or the weight of snow on rooftops, property damage usually grabs the headlines when it comes to counting the cost of a bad winter. For businesses however, the impact that bad weather can have on their ability to operate on a 'business as usual' basis and what that failure can mean in terms of lost sales or productivity, can be just as severe.

The insurer RSA estimated that bad weather in January 2010 cost the U.K. economy £690 million a day as a result of transport problems, school closures and around 44% of workers being unable to get to work. Consequently business interruption is a major risk in bad weather; whether it's your employees unable to make it in to work or your supply chain being interrupted by transport difficulties. If you rely on the transport network to supply critical components for a product you manufacture, or fresh food for your restaurant, any problems with delivery from suppliers will impact on your ability to deliver a normal service and in turn impact on your business's profitability.

Many businesses will have business interruption insurance to cover some eventualities, usually linked to property damage either at their own premises or those of a customer or supplier. While a policy will aim to compensate a business for lost revenue, the policy is not triggered in every circumstance. Consequently, the primary focus should be on making sure there is a robust business continuity plan in place with back up plans for when staff can't make it into the office for example, or what happens in the event that crucial deliveries cannot be made.

The following tips from the RSA are a useful guide to help your business cope should this year's winter cause widespread disruption:

- Make sure you have a Business Continuity Plan in place no matter what the size of your business; think about how you'll best be able to service your customers, suppliers and key stakeholders if your business is disrupted.
- Contact your customers and suppliers to give them early warning of any problems you may be facing.
- Keep close to hand the telephone numbers of the people you may need to contact, e.g. insurance company, emergency plumber, electrician.
- Encourage staff to plan alternative routes to work in the event that their usual route is disrupted.
- Where possible and relevant, look into how an IT solution may enable more of your staff to work from home during the bad weather.
- Priority areas on your premises should be salted and gritted in advance.
- Access should be inspected regularly. Consider placing temporary signs denoting safe routes onto your premises.

Call us if you would like further information about business interruption cover and advice on keeping your business up and running during the next big freeze.

*www.abi.org.uk

NEW MINIMUM WAGE

A change in the U.K.'s minimum wage came into force on 1 October.

The new rates are:

- £6.19 per hour for workers aged 21 and over - a rise of 11p.
- £2.65 per hour for apprentices - a rise of 5p.

However there is no change for 18-20 year olds (£4.98 per hour) and workers above school leaving age but under 18 (£3.68 per hour).

This newsletter offers a general overview of its subject matter. It does not necessarily address every aspect of its subject or every product available in the market. It is not intended to be, and should not be, used to replace specific advice relating to individual situations and we do not offer, and this should not be seen as, legal, accounting or tax advice. If you intend to take any action or make any decision on the basis of the content of this publication you should first seek specific advice from an appropriate professional.

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D C J Group Insurance & Risk Management Ltd
Lutine House
Brimington Road North
Chesterfield
S41 9AP

Tel: 01246 456789
Fax: 01246 260611

info@dcj-insurance.co.uk
www.dcj-insurance.co.uk