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Bayliss & Cooke

COVERNOTES

Winter 2010

IT'S YOUR LOSS

We consider the role of the Loss Adjuster in the claims process.

As the year draws to a close the risk of losses from the British winter begins to emerge. In recent years, we have seen substantial flooding over large parts of Gloucestershire, Cumbria and the Midlands and insurers now expect to deal with claims arising from extreme weather conditions on a regular basis.

When business premises are affected by flooding it is often the practical help and advice you receive in the early days which will influence the eventual outcome of your insurance claim. This can come from us, your insurer, the insurer appointed loss adjuster, a loss assessor and/or a claims specialist.

In the event of a loss, inform us immediately. We can review your policy documentation to ensure you comply with its claims notification conditions. We can also help you to understand what losses are covered. If the extent of loss justifies an on-site investigation, the insurer will appoint a firm of loss adjusters.

Chartered loss adjusters are independent claims specialists. They are instructed by your insurer to establish the exact cause of loss and advise them on policy coverage and compliance with the policy terms, conditions and warranties. They will check the adequacy of the sums insured, and comment upon the extent of damage, the type of loss incurred and the potential cost to the insurer.

As the year draws to a close the risk of losses from the British winter begins to emerge.

It is in your best interest to assist the loss adjuster as they are in control of the flow of information to insurers and can progress your claim to conclusion speedily. They will have been through the claims process before, many times, so try to use their knowledge and experience to your advantage. They will also help to put you in contact with relevant local specialists to help minimise the impact of the flood on your business and to start the recovery process.

Examples of Loss Adjuster Flood Support:

- The adjuster will have access to disaster recovery and damage restoration specialists, who can organise immediate water extraction, install equipment to reduce humidity levels to minimise secondary mould damage and reduce overall drying out times by using dehumidifiers and super dryers.
- If your business is heavily reliant on sensitive paperwork such as corporate documents, medical records and blueprints, the adjuster can provide details of companies who specialise in the recovery of sensitive documents damaged by water or mould.
- The insurer may have a network of contractors with pre-agreed rates which may avoid a lengthy competitive tender process for the reinstatement works required.
- Once policy liability is admitted by insurers, the adjuster is able to recommend interim payments to protect cash flow.

It is important to be aware that the adjuster's brief is to adjust the loss presented, not prepare the claim. Therefore it is up to you to capture details of all losses sustained and provide adequate documentary support. If you require independent representation or help to prepare and present your claim in the best possible light, we can help you appoint your own independent claims specialist or assessor. They will help you to prepare and negotiate the claim. They can be particularly useful in times of large losses or where the claim is complex.

Remember you know your business best, so you should consider all available claims options. Would you prefer to negotiate a cash settlement and move on? Would you prefer to reinstate your business elsewhere? There may be alternative ways of settling a claim and these should be discussed with us, the loss adjuster and the loss assessor or claims specialist to help you to make informed decisions to achieve the best outcome.

For more information on loss assessors and claims specialists please contact us.

IS THERE A LINK MISSING
IN YOUR CHAIN?

The chain involved in the import and export of goods often comprises many suppliers, carriers and interested parties. As such it is also made up of interlinked liabilities and risks.

When importing goods you will have evaluated the risks in your supply chain, your goods will have been carefully packaged for transit, but still your asset may arrive at its destination in a damaged condition, or not at all. This is where the suppliers' or carriers' insurance should protect you, shouldn't it? Unfortunately the answer is 'rarely'.

> A common assumption is that carriers will pay for any loss under their care in full. Unfortunately, this is rarely the case.

Overseas suppliers will offer to insure the goods during all or part of their journey to you but they often purchase the minimum cover required. This can result in goods only being covered up to the U.K. port with no cover for unloading and it may not include the final leg to your premises. In addition, restricted perils cover is often purchased instead of All Risks which can result in unpaid claims. The cost of this inadequate insurance may be passed onto you in your final invoice, so be sure to check what you are paying for and consider opting-out if it does not protect your goods to your satisfaction.

A common assumption is that carriers will pay for any loss under their care in full. Unfortunately, again, this is rarely the case. Generally, carriers operate under conditions which restrict their liability and impose time limits for notifying and quantifying claims. Most carriers in the U.K. operate under RHA conditions of carriage which restrict liability to £1.30 per kilo and will restrict their liability in circumstances beyond their control. A similar situation applies with international transits where international convention applies. Furthermore, if there is a chain of different carriers, identifying who was responsible can prove difficult.

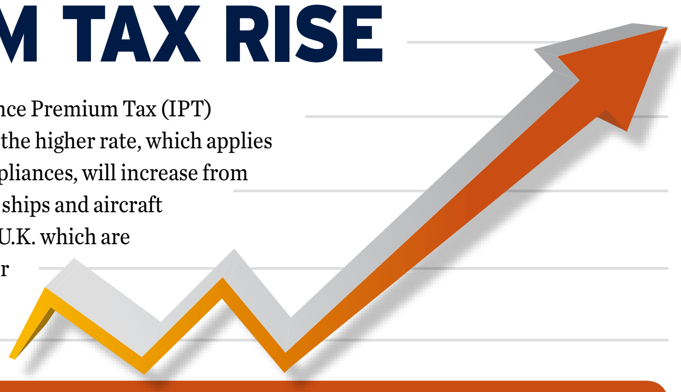
These may sound like worst case scenarios but they are not unusual. The recent case of the Marine Vessel (M/V) MSC Napoli illustrates some of the risks and the extent of missing insurance cover: In 2007 the M/V MSC Napoli got into difficulties during violent storms off the south west coast of England. The vessel developed a crack in her side and began taking on water. 110 containers went overboard during the storm but it took a further three months for all of the containers to be salvaged from the vessel. The cargo was valued at £100 million but under the Merchant Shipping Act 1995, the owners of the Napoli were entitled to limit their liability for the incident, which was set at only £14.5 million. The insurance claims are still being negotiated but it is possible that cargo owners may not receive the full value of their losses. For shipment owners who had purchased marine cargo cover and had cargo on board The Napoli, their goods would have been fully safeguarded.

Unfortunately, even in the event that your goods are covered by the carrier or supplier, it could still get tricky. You will not be in control of any claim as you are not the insured; the supplier or carrier will be. The 'insured' parties might not be as motivated as you to resolve the claim quickly and you could find yourself battling to be compensated in a reasonable time frame.

Many companies do not think that they require marine cargo cover but if you import or export manufactured goods, raw materials or components; are involved in retailing, wholesaling or repair of goods; or are reliant on protection from the shipping company or your suppliers, you may do. Please speak with us to discuss your current cover and find the most appropriate insurance for you.

INSURANCE PREMIUM TAX RISE

In June's 'Emergency Budget' the Government announced increases to Insurance Premium Tax (IPT) from 4 January 2011. The standard rate of IPT will increase from 5% to 6% and the higher rate, which applies to travel insurance and some insurance for vehicles and electrical/domestic appliances, will increase from 17.5% to 20%. So, unless you are buying reinsurance, insurance for commercial ships and aircraft or insurance for commercial goods in international transit located outside the U.K. which are exempt, you will see this increase reflected in the amount you pay to renew your insurance after 4 January 2011.



HIGH FIDELITY

It's difficult to imagine running a business without trust in your staff. Unfortunately for some businesses blind trust, especially in long-serving employees, has led to disappointment and financial loss. Fraud currently costs the U.K.'s private sector £9.3 billion a year*, with business fraud committed by employees believed to contribute significantly to this number. Staff dishonesty takes many forms. Here are some recent claims examples from a leading insurer.**

PROPERTY COMPANY

The IT Manager of a property company purchased computer equipment at an inflated price in return for kick-backs. The loss was more than £750,000.

MOTOR TRADER

An employee with 20 years' service was discovered to have been stealing cash receipts from sales of motor parts. When cash was received from the customer he would pay a lesser amount into the business, keeping the balance for himself. The company suffered a loss in excess of £50,000 over a five-year period.

RESTAURANT

A restaurant manager and several other employees colluded to misappropriate stock. The loss to the insured was in excess of £25,000.

Although the money section of combined insurance policies provides an element of cover for theft of company monies by employees, there is no cover for other property. The limits of cover tend to be quite low and insurers always impose a proviso that discovery of the loss by employee theft must be within a specified period, typically within 14 days of the loss, so any loss discovered after such a deadline will not be covered.

While it may not be something you want to think about, broader cover with a higher limit of indemnity and a longer 'discovery period' is available under a fidelity guarantee insurance policy, also known as staff dishonesty insurance. This insurance provides cover against financial losses arising from employee's acts such as theft of money or property; funds transfer; credit/debit/charge card or money order fraud; computer fraud; or forgery.

If your existing policies do not provide the right cover for your business, a stand-alone fidelity guarantee policy may provide what you are looking for. Premiums are generally competitive and limits can be tailored to your requirements.

Please contact us for more information or to review your businesses insurance requirements.

*Source: National Fraud Authority, Annual Fraud Indicator, January 2010. © Crown copyright, 2010
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SEASONAL SHOP THEFT

Retailers face an increased threat from crime over the Christmas and New Year holidays; high stock levels, increased cash intake and new staff that have been hired to meet the Christmas rush, all increase the risk. Criminals know that businesses are at their most vulnerable over the holidays.

Taking a few elementary steps can reduce your exposure to theft:

- Make your staff aware of the increased crime risk over the festive season and ask them to be vigilant. Theft by shoplifters is not covered by insurance.
- If you employ seasonal staff make sure they are properly vetted and hire them from a reputable source.
- Check your security alarms are in working order and that someone is contactable in the event of a crisis. Your insurance policy may include conditions relating to the alarm or the security of your premises. We would recommend that you familiarise yourself with it as your policy cover may be affected if you do not comply with the policy conditions.
- Keep a close and regular check on your stock levels and your business assets and review your insurance policy to ensure that you have adequate cover should anything happen.

Check your security alarms are in working order and that someone is contactable in the event of a crisis.

BAD VIBRATIONS

The transitional period for compliance with The Control of Vibrations at Work Regulations 2005 ('the regulations') came to an end in July 2010. Employers are now required to comply fully with the regulations and, as such, you can no longer allow the 'exposure limit value' to be exceeded when using work equipment that was already in use before July 2007. The daily exposure limit value is 5m/s² A(8).

The Control of Vibration at Work Regulations 2005 (SI 1093) aim to control the exposure of workers to risks from vibrating work equipment, vehicles and machinery. The regulations impose duties on employers to protect staff and others that may be at risk from either hand-arm or whole-body vibration.

Employees using hammer action tools for longer than 15 minutes a day or any other rotary or action tools for more than an hour a day are considered high and medium risk and subject to an assessment for exposure levels. Even if your employees' exposure is low, you are still legally required to carry out regular checks to maintain minimal exposure.

> **Even if your employees' exposure is low, you are still legally required to carry out regular checks to maintain minimal exposure.**

Control measures may need to be introduced. This could include changing the work methods, replacing old equipment, alterations to the work stations, maintenance of equipment, information and training and possibly health surveillance. By implementing these measures you may be able to reduce the numbers of employees developing the symptoms of Hand Arm Vibration Syndrome (HAVS), while reducing your risk exposure and making your business more attractive to insurers. Conversely, failure to implement or review your procedures could lead to criminal enforcement action and a conviction for failure to comply.

Often your employer's liability insurer will also require you to carry out assessments pre-employment, annually and prior to the termination of employment notice (to control and understand any potential claim).

For further information on the regulations and the prevention of HAVS, please visit www.hse.gov.uk.

WEIGHT OF SNOW

Last winter saw the greatest number of weather related claims in the North of Scotland in recent times, with the rest of Britain not fairing much better. A significant amount of the claims damage related to the weight of snow that had built up on roofs.

In some regions it was the progressive build up of snow that caused problems, in other areas the vast quantity that was dumped over a short period of time. In England this reached 15cm over a few hours, with up to 50cm dropping in parts of Scotland. The freezing conditions compounded the problem with temperatures falling below -20°c in Scotland, with the mean winter temperatures in England, Wales and Northern Ireland standing at only 1.43°c, 1.64°c and 1.51°c respectively*.

If your property has a flat roof or a low pitched roof snow can't easily slide from it. This makes it particularly susceptible to snow damage, as are outbuildings' roofs that may not be as sturdily constructed, so may buckle under the extra weight.

To help prevent a build up of snow try to heat the space under the roof to melt the snow – this can be achieved by portable heaters (if your policy allows their use) or if the building is already heated opening a loft hatch. If the building is a low outbuilding you can try to rake off the snow at regular intervals before it gets too deep. Take care not to stand where the snow might fall as this could be hazardous.

Unusual creaking sounds in the roof space are a sign that the roof is under pressure. If you are concerned you should leave the building and seek professional advice.

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