Monitor drivers to get on the road to lower insurance costs

Willis Towers Watson Networks Members all understand that commercial motor insurance clients have two core needs – keeping their vehicles and drivers on the road earning money for the business, and ensuring premiums stay as low as possible. To achieve these goals, it is important that all employees behind the wheel demonstrate good driving practice when out on the road. It is also imperative that their health conditions are known and monitored.

It is usually easier to stay abreast of an employee's physical health conditions, as these are generally talked about more openly by those suffering them. Mental health issues are not as obvious, yet they are extremely common. One-in-four people in the UK has been diagnosed with a mental illness, two in every 100 people are bipolar and 70 million workdays are lost to mental illness annually.

Mental health is something that fleet managers must stay on top of, as the Driver & Vehicle Licensing Agency (DVLA) must be advised of drivers' mental health issues, as well as their physical health conditions.

Fleet managers are often very aware of the need to notify the DVLA of conditions such as Parkinson's disease and epilepsy, but there are also many mental health conditions of which the DVLA also needs to be aware. These include agoraphobia, anxiety, depression, anorexia (if it is affecting the sufferer's driving), paranoid schizophrenia, bipolar disease and both Obsessive Compulsive Disorder (OCD) and Post-traumatic Stress Disorder (PTSD).

Not knowing the rules about reporting such mental health issues can be costly. Failure to notify the DVLA of any condition on their 'notification required' list could result in a fine of £1000 and possibly invalidate a motor insurance policy. Should an accident occur due to the undeclared condition, a criminal prosecution could also result.

Taking the 'better safe than sorry' approach is how to tackle this. All notifiable conditions – and those that do not need to be notified – can be found at https://www.gov.uk/driving-medical-conditions, and checking up takes just a few minutes.

Whilst medical and mental health conditions can affect a driver's capacity to drive safely, their on-the-road behaviour can also directly influence the insurance costs that you pay, with high-risk driving usually heading only one way – to an accident at some point in the future.

One bad habit that many drivers have adopted is that of tailgating, which costs lives and loses licences. Only a third of

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motorists are aware that this is a driving offence that can result in a £100 fine and three penalty points if caught – a punishment that reflects the fact that one-in-eight accidents on motorways and major UK roads are due to this tailgating. Tragically, over 100 people a year are killed or seriously injured because of this form of bad driving, which leaves insufficient room for braking and collision avoidance.

A new Highways England campaign called 'Don't be a Space Invader', is putting tailgating in the spotlight. Make sure your drivers are not driving in such a high-risk way that could lead to loss of life, or which is likely to harm your claims record, thus having a direct impact on the insurance costs you will pay.

If you need tools to understand your drivers' on-the-road behaviours better, please get in touch.

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Make Cyber Insurance a priority

The UK Cyber Centre, NCSC, established in 2016 to protect the UK from a cyber-attack – something viewed a threat as dangerous to the UK as terrorism – has prevented 1200 attacks in the last two years, according to its annual report.

The central body overseeing cyber security in the UK is currently defeating around 10 attacks every week, as well as working to combat phishing. For instance, more than 746,000 phishing emails were blocked in just one month within the NHS network.

The NCSC has also actively closed almost 140,000 websites which were established by cyber criminals to resemble the sites of banks, Government agencies and businesses, to dupe consumers and businesses into revealing personal financial details.

Many of the attempts to breach cyber security that have been repelled were perpetrated within nation states hostile to the UK and NSCS is said to be on a heightened level of alert following the Salisbury nerve agent attack. UK businesses need to be just as aware of what could emerge and should protect themselves and their assets.

In this climate, all businesses should be seriously considering cyber insurance. To find out more about this now almost 'vital' type of insurance protection and how it can safeguard your business, please speak to one of our team.

Trade Credit: The lifeline Brexit-Era businesses require

Uncertainty over any deal with Brussels coming to fruition is one more issue British businesses could do without. Various factors led to £5.86m of bad debts being written off by Britain's British SMEs alone in the last financial year and the world's largest trade credit insurer, Euler Hermes, warns that a no-deal Brexit would wipe out £3.5bn in UK automotive exports and the ramifications for the chemicals and machinery sectors would be even greater.

Currency exchange rates and the Pound's weakening following Britain's 'Leave' vote have contributed to high profile business failures, including that of Monarch Airlines. Meanwhile, the high street is increasingly challenged by agile, low-overhead, internet giants, whose competitive tactics have contributed to a recent string of high profile bankruptcies involving names such as Mothercare, Toys R Us and Game.

40% of most businesses' assets are tied up in their debtor book and 70% of businesses suffer a bad debt.

Other big scalps claimed by British business's grim reaper, include grocery wholesaler Palmer and Harvey, which collapsed in November 2017 with debts of over £700m, and Poundland, which entered into administration in June 2018.

As Britain will no longer be an EU member state after March 29, 2019, panic has set in with regard to EU-sourced supplies, particularly in the food and drink sector where 51% of the UK's supplies are imported predominantly from member nations.

Some businesses are stockpiling products that can be bought in advance, driven by a fear these will be impossible or too expensive to buy after March 29. This has major implications. Cash is leaving importers' bank accounts, but sales are not yet covering the cost of these stockpiled purchases. The UK's days sales outstanding figure (the average number of days it takes a business to collect payment following a sale) is showing an upward trend and a worryingly negative gap is emerging between revenue earned and expenditure incurred.

Some importers may feel immune to failure but, if over-confident, they could be jeopardising not just their future, but potentially that of their suppliers. If any supplier's cashflow is hit, they may also be unable to survive, possibly then causing a domino-effect supply-chain collapse of Carillion proportions to occur.

In the uncertain trading climate triggered by Brexit, businesses should probably consider Trade Credit Insurance, which covers bad debts caused by insolvency, protracted default and political risks. It assists the cashflow of insured policyholders, paying bills that might otherwise remain unpaid by a financially troubled debtor.

With Trade Credit Insurance as their safety net, businesses can confidently tackle their growth objectives and seek better terms from suppliers and financial lenders. The trade credit policy insurer may also provide the most up-to-date credit check information on potential new customers, to try to prevent late payment and bad debt issues emerging in the first place. Some trade credit insurance policies will also include cover for debt recovery and legal costs incurred chasing debts.

Businesses recognising the advantages of such protection would be well-advised to buy it quickly. Trade credit insurers have been hit hard by big payouts on "high severity" collapses over the past few years and a 5% increase in the cost of trade credit protection is predicted by Euler Hermes.

Trade credit claims are running at £4m per week, their highest level since 2009. The £225m paid out in 2017 was an 8-year high and a 7% increase on 2016. Already, England and Wales have seen 4462 business insolvencies in Q1 2018, a 13% rise on the same period last year. It is fair to say a tsunami of debt is expected.

As experts suggest 40% of most businesses' assets are tied up in their debtor book and 70% of businesses suffer a bad debt, it makes sense for anyone trading business to business on credit terms to buy Trade Credit Insurance. If you recognise the need to do this, please get in touch with us.

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Businesses urged not to be allergic to public liability insurance purchase

Food allergen labelling has unfortunately been in the spotlight in recent weeks, with the case of Natasha Ednan-Laperouse, who died in 2016 after eating a Pret à Manger sandwich containing undeclared sesame seeds, potentially set to bring about a change in the law.

Whilst Pret à Manger was not obliged to put allergen advice on its sandwich's wrapper, the brand's reputation has been severely damaged. PR experts even suggest the company's slow and inadequate response to the crisis has betrayed the brand's values.

The food chain acted within current law with regard to the packaging of food made on the premises, so punitive fines and prosecutions will not result. However, food businesses regulated by the Food Safety Act 1990 and the General Food Law (Regulation (EC) 178/2002), as well as the European Food Information for Consumers Regulation No 1169/2011 (FIC) and the Food Information Regulations 2014 (FIR), must ensure their allergen labelling is compliant, or they could face both penalties and reputational damage.

Food manufacturers and food service providers must not render food injurious to health, or falsely describe it. They must consider the "possible toxic effects, including those where these result from a combination of substances in the food. They must also consider the particular health sensitivities of a specific category of consumers where the food is intended for that category, for example when it contains an allergen."

Businesses with public liability insurance in place are able to cover legal costs.

Any pre-packed food, which cannot be changed without opening or changing the packaging, must carry, either on the packaging or on an attached label, the food's name and a printed list of ingredients, including allergens, in a specified font size. It must provide information on allergens, substances produced or derived from allergens and allergens used during processing.

The 14 major food allergens EU law expects to see highlighted in food produced, sold and served are: cereals; crustaceans; eggs; fish; peanuts; soybeans; milk (including lactose); nuts; celery (including celeriac); mustard; sesame seeds; sulphur dioxide (sulphates) if more than 10 milligrams per kilogram or 10 milligrams per litre in the finished product; lupin (including lupin seeds and flour) and molluscs.

Some foods also require allergen-linking, such as tofu (derived from soya) and tahini paste (made from sesame seeds). Allergens can lurk within a wide variety of food and dishes and customers must be made aware of this, whether they enjoy a soup, ice cream, pastry or something else.

Whilst the Natasha Ednan-Laperouse case resulted in no legal penalties, other high-profile cases have. In June 2017, pub operator, Greene King, was prosecuted for serving a dessert containing eggs to an 11-year-old with an egg allergy. It had not updated its allergy books after swapping its dessert supplier, so every Greene King pub used out-of-date allergen information for over six months. The fine imposed was £24,000 plus legal costs.

In May 2016, an Indian restaurant owner was jailed for six years for gross negligence manslaughter, having caused a customer's death by serving a curry in which the recipe's almond powder was replaced by cheaper peanut powder.

Businesses with public liability insurance in place are able to cover legal costs and compensation claims can also be covered. Businesses allergic to such non-mandatory cover, however, would have to pick up the bill themselves. This is an unnecessary risk, when public liability insurance is easy-to-buy and highly affordable. It can also be bought as a package that includes employers liability insurance - a legal requirement for all employers.

The Natasha Ednan-Laperouse case has heightened allergen awareness, which could see more litigation in the future. If you need assistance in putting appropriate public liability insurance cover in place to protect your business's liquidity should you cause harm a member of the public or damage their property, please get in touch.

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With great power comes great D&O responsibility

Events in the boardroom fascinate viewers of TV's 'The Apprentice', but a fate worse than merely being fired hangs over directors, non-exec directors and managers who directly influence company strategy and day-to-day operations in the real business world.

Over 100 sections of the Companies Act 2016 can result in legal prosecution, due to negligence, poor practice or fraudulent activity. Directors and individual managers can be charged with offences including breach of trust, breach of duty, neglect, error, misleading statements, defamation, environmental pollution and wrongful trading. There are many more. Being found guilty can mean a hefty fine or even a prison sentence.

A company's director or officer is in 'default' if they, "authorise or permit participation in, or fail to take reasonable steps to prevent", the offence committed. Consequently, a director can be held liable for an employee's illegal actions.

Cases are not just brought against registered directors. Someone who the directors trust and whose advice is followed – a non-exec or shadow director for example - can also be prosecuted, bringing shareholders, lenders, in-house lawyers and management consultants into the frame.

With nearly four million companies registered at Companies House (March 31 2017), many misdemeanours go unnoticed, but certain triggers such as company insolvencies, director disputes, shareholder activism and the much-encouraged whistleblowing, cast light on others.

The legislative burden grows continually and all companies must comply with multiple, evolving regulatory regimes, including staying abreast of overseas law if they have global operations.

The UK's Bribery Act (2010), created a 'failing to prevent bribery' offence, whereby a director can be held liable for an employee bribing a third party, anywhere in the world. Incoming regulation in financial services, the Senior Managers and Certification Scheme, is further tightening regulation in this industry too.

Any director or officer acting outside their terms of reference can face civil, criminal or regulatory proceedings.

Regulators, investors, creditors and shareholders can all lodge claims against company individuals, if finances are mismanaged and companies are run inadequately. Six-figure fines are common. For example, recently a road fatality led to the prosecution of a company's transport officer, who failed to address vehicle deficiencies over an extended period. He was found guilty of manslaughter by gross negligence in a case costing the business £200,000.

Another case, relating to the dangerous driving of a road sweeper, resulted in a £118,000 fine, whilst a property developer who failed to seek shareholder approval for land purchase was not found guilty, but incurred a legal costs bill of nearly £750,000.

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Any director or officer acting outside their terms of reference can face civil, criminal or regulatory proceedings and have personal monies and assets targeted by compensation-seekers.

Frequently, directors and officers insurance (D&O) is a 'get out of jail card'. It often costs a business less than £750 a year and covers defence costs, plus compensation payments. Without it, a director or officer not only has to pay legal costs and awards themselves, but they also have to pay for lawyers to act for them during criminal proceedings and as they try to avoid director disqualification.

The latter can lead to a 2-15-year ban on holding directorships and the stigma of being deemed 'unfit' to run a company. It can also potentially damage personal credit history. Even death and retirement bring no escape. Estates can be forced to pay fines and past actions follow directors. For this reason, D&O insurance incorporates a run-off period following a director's retirement, to protect individuals who were insured at the time of an incident, irrespective of when the claim is actually made.

Employment practices liability can be added to some D&O policies, covering areas such as employee discrimination, unfair dismissal, harassment and failure to promote an individual. This makes D&O even more attractive, particularly when it helps attract top talent who want the reassurance of insurance back-up.

With great power comes great responsibility, but too few company business owners recognise this. If you now see a need for D&O protection, please get in touch.

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Avoid being one of the 43% of businesses with inadequate business interruption cover

In recent months, we have seen two major fires ravaging buildings in Glasgow city centre – the Glasgow School of Art and Victoria's night club – and ongoing impacts on Salisbury-based businesses following the nerve agent attack. Last year, we saw terrorism creating other issues for businesses suddenly finding their premises behind a police cordon.

A fund of £5m is available to Glasgow businesses demonstrating hardship following the fires. This conveys an appreciation of how tough trading and cashflow management can be for businesses directly or indirectly caught up in incidents like fire, flooding and storms.

Many businesses assume buildings and contents policies cover losses incurred in disaster-type scenarios, but this is not so. Businesses seeking compensation for a loss of income need appropriate Business Interruption insurance.

Businesses should seek expert guidance regarding the right level of cover required, as the terminology used in business interruption insurance policies can be difficult to

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interpret correctly. For instance, cover for “denial of access by a competent authority due to damage in the vicinity of the premises” means that, even if your premises are not directly damaged, you could be covered. The word ‘vicinity’ in this scenario may offer wider cover than, for instance, a wording of ‘one mile’. It is important to understand the words and definitions within the policy, as this could mean the difference between being covered and or having insufficient cover.

A key issue when buying business interruption cover is deciding the type of cover required. Some policies cover damage to premises and equipment due to fire, storm and flood, as well as offering compensation for the incident-related breakdown of essential equipment. Others also provide cover if a business cannot physically trade due to denial of access to the business premises. Some can also cover losses incurred when an incident occurs at the premises of a key client or supplier. It is important to speak to an expert to assess the appropriate cover required for your business.

It is also crucial to determine how long it would take your business to get fully back on its feet following a major incident. This determines the “indemnity period”, which could be 12, 24 or 36 months long. The next variable is the sum to be insured by the business, which can be calculated in several ways, often based on a business’s turnover plus and minus some other elements of a business’s income, worth and assets. Factors such as inflation, and also future business prospects that may be affected by a temporary closure, need to be included when determining the business’s appropriate sum insured.

There are other costs to consider too, such as the rental of temporary premises and possible additional marketing expenses. Bank loans to cover repairs may also be required.

According to the Chartered Institute of Loss Adjusters (CILA), 43% of business interruption policies have inadequate sums insured. And, sometimes, those with business interruption insurance forget to update their sum insured to reflect new situations.

Given the difficulties in assessing the right level of cover and interpreting policy wording, it is advisable to work with a broker who can suggest the right sum insured and offer a policy covering the business’s core needs. The average downtime for a small business following a severe incident is typically over three months, but every business is different, so your broker’s advice is invaluable.

With climate change and arson both causing a significant number of incidents, it is important to ask the ‘what if?’ question in relation to your own business. Could you simply pick up

43% of business interruption policies have inadequate sums insured.

laptops and work elsewhere, or would you need to replace equipment and find premises to accommodate it?

Either way, you should arm yourself with a robust continuity plan, detailing how to respond to a crisis.

Talking to your broker can make business interruption insurance easier to understand and navigate. If you need assistance with this, please get in touch.

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