

Covid-19: Insured or not

Overview and effect on business

Covid-19, more commonly known as “Coronavirus” has already caused significant impacts to many around the world and we will likely see the subsequent effects for the foreseeable future. Given the spread of the outbreak it is important to ensure there are contingent plans in place in order to mitigate the key risks to your business.

Whilst the spread of the virus continues, it is essential that specific risk assessments are carried out to ensure all employees are aware of procedures and protections to be carried out. For businesses with direct and regular public contact some of the key items to be considered are the common areas cleaning processes, common toilet/changing facilities cleaning processes, virus symptoms and self-isolation procedures, government/FCO guidance, supply chain audit for product, both own and public availability of sanitisers, personal hygiene, notices of process placed in any obvious public spaces. This should all form part of existing business continuity planning.

So what about insurance? Many factors affect whether a loss would be covered under insurance, including the type of loss, the type of coverage and the terms and conditions of specific policies therefore it's important to note that overall mitigation is going to be the most effective solution.

Employees

All employers have a duty of care to their employees and should take all reasonable steps to ensure their health, safety and wellbeing. Employers Liability insurance provides cover for a Company's legal liability to pay compensation, costs and expenses for bodily injury to any employee, which under most policies will include disease. Cover is only triggered if an employer has been negligent and therefore failed in their duty of care, which has put an employee at risk. As above prevention is the best course of mitigation. Working from home where available is a possible solution. Group events, meetings and business travel should be questioned and alternative solutions where appropriate used.

Travel

Should an employee fall ill whilst on a traveling on a trip that includes an overnight stay or outside their country of domicile for business, cover for emergency medical and sickness is normally included under a Travel Policy. Any advice set out by the relevant government offices should always be adhered to, so in the case of the UK if the Foreign and Commonwealth Office is advising against travel to a country or region then your travel policy would likely not respond to its fullest extent. Where possible, minimise business travel to all but essential trips and keep up to date with the advice provided by the government and World Health Organisation.

General Liability (Public/Products/Pollution)

Businesses have a duty of care not only to their employees but in all interactions and should take reasonable steps to ensure that health, safety and wellbeing are paramount. Similarly to Employer's Liability your Public Liability insurance will provide coverage for your legal liability to pay compensation, costs and expenses for bodily injury, however as before you have to be deemed negligent in failing your duty of care.

It is important to minimise the risk of spreading coronavirus through avoiding group events and meetings and considering the possibility that your staff may be able to carry on their normal duties and work from home.

Business Interruption

The risk of consequential loss following the Covid-19 outbreak is significant. With employees having to self-quarantine and not all being able to work from home, the potential risk of loss of income could be considerable. As a general stance, business interruption is triggered by physical damage and this is normally damage to your own goods/premises, which therefore does not apply to the current situation with Covid-19. Some policies may include cover for disease under an extension of cover for notifiable disease, but this will have a limit of indemnity much lower than the overall policy limit,

Supply Chain Insurance

The threat of interruption to your business' supply chain as a result of Covid-19 could potentially be catastrophic – already we have felt the impact on the global economy and several large businesses particularly those in the manufacturing and wholesale industries have felt the effects of a disrupted China. Companies that limit supply chain exposure by broadening their range of suppliers will be less affected but not immune to the impact of a large-scale supply chain disruption. Whilst insurance coverage does exist for contingent business interruption, given the scale of Covid-19 so far it is highly likely that as a known event it would be excluded, or premiums would be significantly inflated. Whilst ensuring that you have a robust business continuity plan that will extend through your supply chain, understanding your supply chains own resilience so that their BCP aligns with your goals is also a useful exercise.

Transit Insurance

A key element of most businesses is the movement of goods, and with an increased potential for supply chain interruptions it's important to be aware of what your Marine Cargo or Stock Throughput insurance does and doesn't cover. Institute Cargo Clauses exclude loss or damage to goods as a result of delay, capture seizure arrest restraint or detainment (piracy excepted).

Freight Liability

It is important to note that the above limitations do not just apply to cargo insurance and that you cannot rely on the various trading terms and conditions throughout the supply chain to recuperate a loss that your cargo insurance wouldn't pay. It is likely that Covid-19 will be considered a "force majeure" event which means ports, shipyards and warehouses can free themselves from their legal obligations – there are also government orders which would likewise exempt a carrier from their ordinary contractual liability, for example the Hague / Hague-Visby rules incorporate this. In a scenario where your goods became contaminated and therefore have to be quarantined or destroyed, the warehouse operator who actioned such decision would not be liable to indemnify you.

This is a constantly evolving situation so if you have any queries, as always, please do not hesitate to contact us.

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