

Coronavirus (COVID-19) insurance considerations

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Please note: the information contained in this legal update is correct as of the original date of publication

With instances of COVID-19 rapidly increasing throughout the UK, many businesses are considering the options available to limit staff and customer exposure to Coronavirus (and mitigate the potential impact on their business). Such considerations are likely to be influenced, to an extent, by the insurance cover available to businesses under their insurance policies.

This bulletin provides a brief overview of the main insurance policies likely to be affected and the issues to consider when deciding what cover may be available.

Travel cancellations

Many travel insurance policies will be dependent on official government guidance. These are more likely to cover the cancellation of travel plans to destinations where the UK's Foreign and Commonwealth Office (FCO) has advised against travel, than the cancellation of plans by a business as a precaution. Key factors will include the date on which the FCO issued travel warnings and whether the policy expressly excludes pandemics/epidemics.

On 4 March 2020, insurance providers that are members of the Association of British Insurers (ABI) released a [series of 6 pledges](#) in relation to travel insurance, offering "enhanced help and support to all their customers" in assessing their options under their policies. This includes mobilising resources to ensure that:

- valid claims are processed swiftly and fairly;
- any help and advice regarding travel options or compensation options is given promptly (based on the most up-to-date information on the outbreak); and
- where standard medical certification is not available, they consider appropriate alternative evidence.

Event cancellation and abandonment

The potential cancellation of key events and conferences in sport, music, business and politics has been well publicised in recent weeks. Event cancellation and abandonment insurance may cover the loss of net profit, and irrecoverable expenses of the organisers. However, insurance policies will need to be reviewed to verify if diseases or pandemics/epidemics are excluded, and/or whether cover might depend on the existence of any FCO travel advice or government-sanctioned travel restrictions, or the closure of relevant venues.

Business interruption

Some businesses will have the benefit of business interruption cover, which generally covers loss of gross profit or loss of income in the event the business is interrupted or adversely affected due to reasons beyond the policyholder's control. Conventional business interruption cover is subject to a 'material damage proviso', namely that in order for an interruption to be covered it must be caused by physical damage that is insured under the policyholder's property damage policy (e.g. interruptions caused by fire or flood). However, some policies also include cover for interruptions caused by other specific events without the requirement for property damage. It is

possible that such policies could afford some cover for certain losses flowing from interruptions as a result of COVID-19, but it will be entirely dependent upon the specific facts and precise terms of cover under the policy.

Liability insurance

Where businesses choose not to cancel travel arrangements or events, or where they otherwise risk falling short of their obligations, they may also become liable to claims from employees, customers, members of the public or possibly shareholders.

Customers or members of the public may be owed a duty to be adequately protected from contracting Coronavirus or to be warned of the risks of exposure. Businesses in certain industries including travel, sport, leisure and hospitality will likely be affected here.

Various insurance policies could be triggered:

- Public liability insurance might cover operators of premises for claims from customers and members of the public, for failing to adequately protect them from exposure to Coronavirus;
- Employers' liability insurance might be relevant. This would normally cover diseases that an employee risks exposure to in the normal course of work (e.g. laboratory technicians investigating Covid-19). However, it might also cover scenarios such as an employer that, knowing that an employee had travelled back from a country on the FCO list and/or who has been exposed to Covid-19, then fails to implement adequate steps to protect other employees;
- Directors and Officers (D&O)/ Managers' liability insurance might be relevant to potential claims relating to an alleged breach of Directors duties or in circumstances where a senior manager (in a scenario such as the one set out above) fails to protect employees from exposure – depending on exclusions;

Aggregation of claims

For companies that experience the knock-on effects of a Coronavirus outbreak at various different locations, in various parts of the UK or across different countries, the possible aggregation of those claims into one claim or into several claims will become important. This will depend on the specific facts relating to that business and the specific aggregation language in the policy. It will impact whether any insurance excess (deductible), or any cover limit, within the insurance or reinsurance policy apply once to an 'aggregation' of many claims or apply multiple times to separate claims.

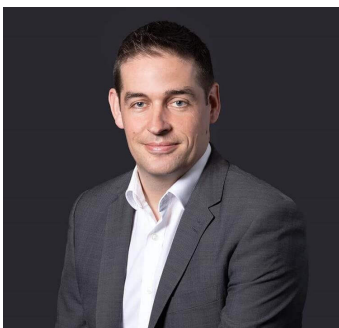
Policy wordings and purchasing cover

It is important to note that, for each of the above types of insurance cover, there is no 'industry standard' regarding the inclusion or exclusion of coronavirus or other pandemic illnesses. Care will be needed to verify whether a particular policy provides the business with adequate insurance cover for the action being considered, undertaken or enforced.

Many businesses may also be considering whether to buy insurance cover now. It may well be that the insurance policies currently available in the market will now specifically exclude coronaviruses, COVID-19 or pandemics.

This bulletin is intended to provide general guidance only. It is important to check your specific policy for its terms and conditions. If you are unclear as to whether your particular policy responds, you should speak to your insurance broker in the first instance.

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