

Below is some information on the issue Business Interruption Cover, Vacant properties and Employers Liability under Commercial Insurance Policies arising from the ongoing impact of Corvid 19.

Corvid 19 and the implications for your business – is there any cover under your Insurance?? And if not, why not?

As we are all aware we are currently in unprecedented times and the impact of Corvid 19 is being felt in every sector, retail, services, manufacturing and finance. The ripple effect of this Virus is far reaching and there appears to be no escaping the inevitability that it is getting closer and closer to our own businesses and localities. Obviously our primary concern will always be for our families, our employees and our clients and for the welfare of everyone around us.

As business owners we also have to be acutely aware of the impact on our business, and will it survive?

Under standard policies, the business interruption section does not include forced closure by authorities as such policies are intended to respond to physical damage at the property which results in the business being unable to trade as normal. Some business interruption insurance policies, however, may include cover in relation to infectious disease and this is where the bulk of policyholder queries arise. Insurers will no doubt make the case that the intent of this infectious disease cover is to indemnify against closure of a business premises by a public authority arising from an infectious disease emanating from the premises itself (or local to the premises) and not to the effects of a global pandemic. However, there are many different insurers operating within the Irish market and each will have their own policy wordings and some may have an exposure in the legal interpretation of their wordings.

Owens McCarthy Loss Assessor recently published their own report and examination as to how the insurance policies offered by the leading insurance companies will react to claims for Business Interruption as a result of Corvid 19.

Some key points raised in their report are as follows,

- Not every Policy includes an extension for Business Interruption cover and even fewer then carry a further additional extension to include cover for losses arising out of 'infectious' or 'notifiable' disease. On the absence of such extensions, there will be no basis for a claim to be made.
- In other cases, your Policy cover may be based on a specified list of diseases and as Corvid 19 is a new disease it is very unlikely to be listed. The outcome again is that there will be deemed to be no cover in place.
- A policy may provide an extension under the business interruption section for 'notifiable' or 'infectious' diseases, however for a claim to be successful there

must be proof that any outbreak occurred at the premises – and that the closure is because of this occurrence – If this proof cannot be provided then the losses will not be covered.

As this is all unprecedented, it still has a long way to go and representations are being made by insurance brokers and their representative bodies and industries to the government to engage with the insurers, however as this Corvid 19 has been declared a global pandemic it is very unlikely that any insurance policy will be able to meet with the demands of the deluge of claims it would face should they be willing to move on their policy wordings.

In every case, the policyholder should react to the current crisis in the manner of a 'prudent insured person or businesses' and aim to reduce their own loss, notify their insurance broker/company to determine what is the position with regards to cover under their own policy.

Unattended properties

The other big exposure that businesses need to be aware of is the continuing requirement on them to notify their insurance company of any material change to the business. If you have ceased trading whether voluntarily or as a result of an instruction from the State and your business premises are now vacant, then this is a material fact and you will need to notify your insurance company accordingly.

In most cases we have found that insurers are willing to maintain full policy cover providing that the following steps are taken,

- a) keep all gas and water mains supplies disconnected
- b) keep all electricity mains supplies disconnected (unless to supply an intruder or fire alarm system)
- c) keep all windows and shutters securely locked
- d) check on the premises at least weekly (both internally and externally) if permissible
- e) remove all trade waste

Again, each Insurer will adopt their own approach and it is vital that you inform your Broker/Insurer and not to assume that cover is in order.

Employers Liability

With so many employees now working from home, most insurers have confirmed that the policy cover will extend to cover their activities away from the business premises, but again check the position regarding cover under your own policy.

Please do let me know if I can be of any further assistance to you or indeed to HABIC on any of the above. As this space is still changing I will keep you informed of any future developments that I think will be of interest to the members.

Kindest Regards

Stay safe and Kindest regards,

Brian Mullins

Managing Director

