



# COVERNOTES

Summer 2009

## CREDIT INSURANCE - NECESSITY OR WASTE OF MONEY?

In recent months, the credit insurance industry has been vilified in the press, with column inches devoted to the perceived lack of support offered to companies by insurers during the current economic crisis. Credit insurance policies have been described as a 'leaky umbrella' during a debate on a national radio phone-in and in some quarters, the industry has even been blamed for high profile failures such as Woolworths.

Do the media have a point? Ask existing policyholders who have experienced a combination of reduced cover and increased premiums and many would probably say yes. Address the same question to underwriters and they would say no, pointing to the huge rise in claims payments.

So, if the cover is reducing and the price is increasing, why continue with credit cover?

We are in the midst of a global economic crisis. Corporate working capital is stretched, revenues are down, balance sheets are weaker and more businesses are in distress.

From small owner-run companies to large PLCs – regardless of size or location – everyone is feeling the effects of the downturn.

Against this backdrop, credit insurance has a key role to play in credit management. Whatever the media's perception of credit insurers, they can demonstrate the effectiveness of the cover by the substantial rise in the value of claims being paid.

Insurers will also highlight the fact that new enquiries for credit insurance have increased over the last few months and higher levels of cover are being written than was the case a year ago – albeit not in high risk sectors such as Automotive, Construction and Non Food Retail. Many Financial Directors are buying the policies as much for the additional source of information as for the cover.

## SO... NECESSITY OR WASTE OF MONEY? THE JURY IS STILL OUT - BUT HERE ARE SOME TIPS FOR MAXIMISING THE BENEFITS AND REDUCING YOUR EXPOSURE.

### Top Tips

- Communicate with your sales teams on a regular basis to avoid orders with buyers facing financial difficulties or who are in high risk sectors.
- Monitor buyers' aged debt reports carefully and ensure your limits match exposure.
- When arranging insurance, try to obtain up-to-date management/draft accounts from your buyers or set up a dialogue with underwriters so these can be supplied direct.
- Remember to follow policy procedures when reporting overdues. If you miss reporting, this could invalidate your claim.
- Do not agree repayment plans with customers without obtaining agreement from your insurer.
- Provide up-to-date financial information for your company to avoid the market reducing cover for your suppliers.
- If you are not insured, call us to see if cover would be available and at what cost.



# PREPARING FOR A PANDEMIC

In June, the World Health Organization (WHO) raised its alert level on the swine flu outbreak to Phase 6, officially declaring the outbreak a global pandemic – the first such declaration in 41 years. Raising the alert level does not mean that the H1N1 virus is more dangerous, just that it is more widespread.

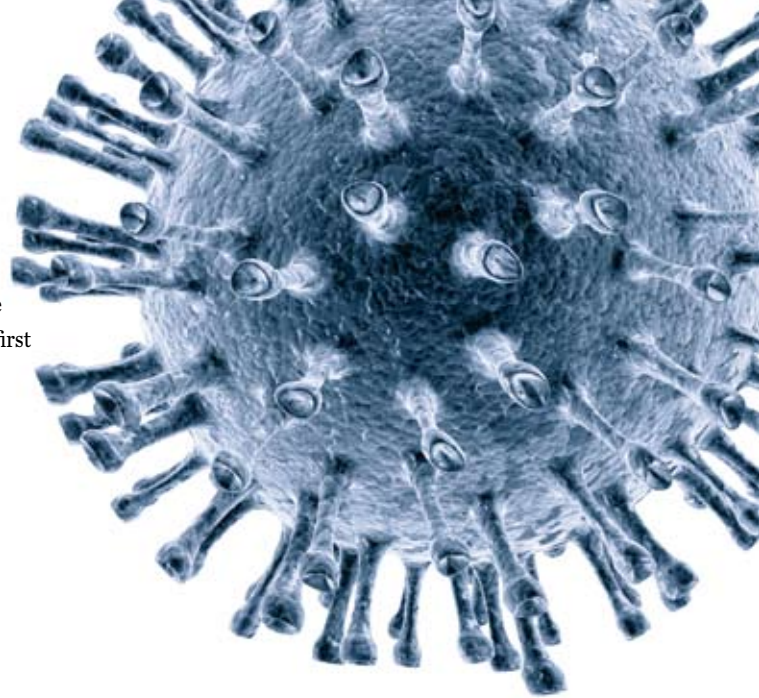
There is a real concern that the effects of a pandemic may push some businesses, which are already struggling in the current economic climate, over the edge. It is therefore vital that organisations have in place a robust business continuity plan to help minimise any disruption caused by an influenza pandemic.

Some issues that your business should consider include:

- Establishing a pandemic co-ordinator and/or team with clear roles and responsibilities for preparation and response planning. They should review developments in the media and on the WHO website on a daily basis and update instructions to staff as events unfold.
- Identifying the critical business activities, key employees and other inputs such as raw materials, suppliers and transportation required to maintain the minimum level of service needed to stay in business.
- The importance of good communication. Ensure that all employees are familiar with your business's response plan and their role in it.
- Checking that your suppliers/ sub-contractors have up-to-date business continuity plans.
- Reviewing the need for continued face-to-face contact with customers and suppliers and checking whether any restrictions apply to your business travel insurance.
- Reviewing your communications and information technology infrastructures to support employees working from home and video or tele-conferencing instead of face-to-face meetings with customers and suppliers.
- Having in place policies and resources for reducing the risk and spread of influenza in the workplace and for employees who are suspected to be ill or become ill in the workplace.

It is unlikely that your property damage insurance will cover any decontamination costs arising from an influenza pandemic. As regards your business interruption insurance, if it does not have an operative contagious and infectious human disease extension, there is no cover. Be aware that even if this extension is in force, many insurers specify the diseases covered under it: influenza is not typically one of the listed diseases and as such, is not covered. Even if the extension is not on a 'specified disease' basis and instead uses words such as 'a human infectious or contagious disease which a competent authority has specified shall be notified to them', swine flu is not a notifiable disease in the UK at the current time. Whilst there are some possible arguments that might be used to extend the list of diseases that are notifiable, the position is unclear.

It has been suggested that the virus may go into hibernation only to reappear in a more virulent form in the winter. As such, we recommend you begin testing your business continuity plan immediately to identify and rectify any problem areas in the knowledge that businesses with a robust business continuity plan stand a better chance of working through the pandemic and of recovering quickly afterwards.



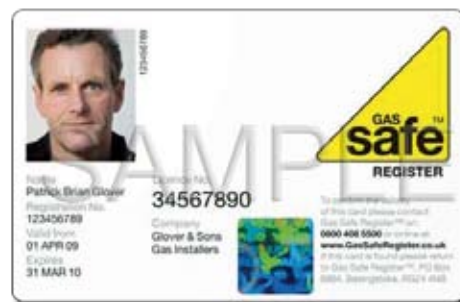
## CORGI CONFUSION

Gas safety in Great Britain and the Isle of Man has changed. CORGI gas registration in this region ended on 31 March and no longer applies to gas safety law. Since 1 April 2009, all gas engineers must be on the new Gas Safe Register™ to do gas work lawfully.

Be aware though, if you are based in Northern Ireland or the Channel Islands, this is still operated by CORGI. To make matters more confusing, CORGI continues to operate as a business enterprise, providing amongst other things, an online "Find a trades person" service in respect of trades such as electrical, plumbing and gas.

So, being a CORGI member could just mean that the person is a plumber, electrician or ventilation engineer and not necessarily a registered gas engineer!

Always ask for a Gas Safe registered engineer. And always ask to see their ID card. Be gas safe. For more information go to [www.GasSafeRegister.co.uk](http://www.GasSafeRegister.co.uk)



# THE POLLUTER PAYS

This March, the UK finally adopted the EU Environmental Liability Directive (ELD), nearly two years behind schedule. Under the new Directive, more companies face increased costs for clean up and reparation of any environment they pollute.

The ELD came into effect in England on 1st March 2009 by the Environmental Damage (Prevention and Remediation) Regulations 2009. Wales, Scotland and Northern Ireland will have their own regulations – all are expected to come into force during 2009 and be broadly similar to the Regulations in England.

The Directive aims to ensure businesses focus on the environmental effects of their activities, requiring operators to avoid causing environmental damage and to proactively remediate such damage. It is based on the polluter-pays principle, the aim being that the original polluter pays for remediation - not the taxpayer.

The Regulations provide that, for certain activities, where there is an imminent risk of 'environmental damage';

- The operator must take steps to prevent it
- If damage has occurred, they must take steps to prevent further damage

- Where damage has occurred, the relevant enforcing authority must assess the damage, identify whether it is 'environmental damage', decide upon remedial measures and serve a remediation notice on the responsible operator

The operator is liable for investigation costs, monitoring and reparation. Personal costs can also be high. Directors and management teams may be deemed to have committed an offence if they consent, contrive or are neglectful in their duties. The penalties for an offence under the Regulations if it reaches Crown Court can be an unlimited fine and/or up to 2 years imprisonment.

It is important to consider these additional risks when buying environmental liability cover. Insurance products are available and can be tailored to meet your liabilities. Please contact us for further information.

## CORPORATE MANSLAUGHTER IN COURT FIRST CHARGES BROUGHT UNDER 2007 ACT

Proceedings in respect of the first ever charge of corporate manslaughter brought under the Corporate Manslaughter and Corporate Homicide Act 2007 (the 2007 Act) commenced at Bristol Crown Court on Tuesday 23 June.

Cotswold Geotechnical Holdings Limited is the company being prosecuted following the death of one of its geologists, Alexander Wright. Mr Wright died on 5 September 2008 whilst taking soil samples from inside a pit which had been excavated as part of a site survey. The sides of the pit collapsed, crushing him to death.

Mr Peter Eaton, a director of the company, has also been charged with the common law offence of gross negligence manslaughter and with a breach of Section 37 of the Health and Safety at Work Act 1974 (HSWA). In addition, the company has been charged under Section 33 with a failure to discharge its general duties under the HSWA to ensure, so far as is reasonably practicable, the health, safety and welfare at work of employees.



# GRIEVANCE PROCEDURES

For four years, the Statutory Disciplinary and Dismissal Procedures (DDPs) governed the process by which disciplinary action, dismissals and grievances were dealt with by employers. The intention of the DDPs was to simplify procedure and resolve disputes before proceedings were issued. Sadly that proved not to be the case and it was a relief to many when they were repealed on 6 April 2009 and replaced by a new Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice.

One of the main changes is the abolition of the mandatory three-step statutory process for disciplinary action and dismissals. As a result, a dismissal is no longer 'automatically unfair' in respect of a procedural failure. As for grievances, employees no longer have to lodge a grievance before bringing a claim at a Tribunal for discrimination or constructive dismissal.

The new Code aims to provide a more flexible, simpler and less prescriptive approach and places great emphasis on seeking to resolve disputes informally within the workplace wherever possible. If cases do end up at a tribunal, they will still be decided on existing principles around an employer's 'range of reasonable responses'. However, Tribunals must have regard to the Code when determining cases to which the Code applies. An unreasonable failure by either party to follow the Code can adjust awards up or down by up to 25%.

Other key changes include:

- The new Code does not apply to complaints about redundancy or retirement dismissals or non-renewal of fixed-term contracts
- The Code has introduced a right for employees to call witnesses at disciplinary and grievance hearings
- There is a requirement to provide any documentary evidence to the other party in advance of the hearing

ACAS has also produced a Guide which accompanies the Code. Although not mandatory for employers to follow, it is likely to be referred to by Tribunals when considering cases.

The key for employers is to ensure that their disciplinary and grievance procedures are compatible with the Code.

For more information, go to [www.acas.org.uk/dgcode2009](http://www.acas.org.uk/dgcode2009)

## WE ARE W<sup>nm</sup>ISE

Choosing between quotes from insurers can sometimes be difficult and confusing. To aid your decision making process, we aim to provide you with as much information and guidance as possible. To help with this task, we are pleased to announce that we now have access to W<sup>nm</sup>ISE, an Insurer evaluation tool that is not widely available.

We consider W<sup>nm</sup>ISE to be the ultimate buyers guide. It compares market leading insurers, helping you to make better informed decisions based on a broad range of factors. We work in partnership with the insurers, feeding back the results to help them raise service levels.

Our key partner Insurers are evaluated on a five-point scale. Views are recorded on their performance in a number of areas including pricing, policy timeliness, policy cover, claims and general service.

The latest results comprise feedback from an exclusive group of 298 individuals from 64 brokers. To learn more about W<sup>nm</sup>ISE, please contact us.



This newsletter contains a general overview of the U.K. insurance market based on our understanding as insurance brokers and risk consultants. It is not intended that it be used, and should not be used, to replace specific advice relating to individual situations. In particular, we do not offer either legal or accounting advice.

Whilst we endeavour to provide accurate and up to date information, we cannot guarantee this and you should not rely on the information contained in this newsletter without seeking further more detailed advice to suit your particular needs.

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