

COVID-19: Implications for insurance brokers

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The Covid-19 pandemic will have far reaching effects on almost all businesses, but insurance brokers will continue to help their clients navigate through such turbulent times, dealing with a wide range of insurance and risk related issues. These issues will span across a variety of businesses and sectors, but with a particular focus (at least initially) on retail, hospitality, entertainment and travel businesses.

The current situation gives rise to additional risks for brokers themselves and will bring into sharp focus their core duties in meeting their clients' insurance demands and needs.

Covid-19 claims

Insurance brokers have already been inundated with queries from their clients relating to the impact of Covid-19 and the extent that the losses they are suffering are insured. Covid-19 has already impacted a large number of lines of insurance, with common queries likely to relate to travel, physical damage and business interruption and/or contingency insurance.

Policy wordings vary greatly across insurers and the type of risk that is being insured. For example, some insurance policies may include pandemic or epidemic-specific exclusions, both by reference to specific diseases or more general exclusions in relation to outbreaks of, or fear or threat of, communicable or notifiable diseases.

A broker's core duty is to understand their client's business and obtain suitable cover. Where cover for a loss is not sufficient, or excluded altogether, the advice brokers have given to their clients may come under scrutiny. There may be particular focus on advice given where terms and levels of cover have changed over recent years. However, this should be viewed in the context of the client's risk profile at the time, when some businesses may not have considered pandemics as areas of high risk to their business.

Moving forward

In addition to the challenges brokers may face in dealing with insurance claims, they should also be mindful of potential risks in advising their clients moving forward.

From a practical perspective, most brokers, insurers and their clients are likely to face a sustained period of home and remote working which will inevitably lead to a period of adjustment for the parties involved. Correspondence is likely to take place over electronic platforms, rather than face to face meetings. Brokers that record calls will need to consider whether calls will still be recorded where their employees are working remotely and more likely to use mobile phones or alternative means of communicating. From a risk management perspective, it will be as important as ever that brokers ensure that detailed attendance notes are taken where calls are not recorded.

One of a broker's core duties is to use reasonable skill and care to ensure that there is no gap in cover. Where a policyholder is providing a substantial amount of information to insurers, collating and providing this information may take longer than usual. Brokers should also be mindful that it may take longer than usual for both policyholders and insurers to respond and that insurers may seek additional information from previous renewals (for example, more in-depth questions concerning business continuity may be asked). Brokers will therefore need to allow for ample time for the renewal process and it may also be necessary to seek short extensions of cover from insurers to allow for the renewal process to complete.

Brokers will be discussing the impact of Covid-19 on their clients' businesses and the extent that insurance is available to help protect against future outbreaks of communicable diseases. In relation to business interruption cover, brokers should be mindful of the need to consider what events will trigger cover. They should also be aware of their duty to discuss the levels of cover required and advise a policyholder how business interruption is calculated and what indemnity period is required.

A broker is also under a duty to ensure that a policyholder is aware of any onerous or unusual terms and to inform clients of any significant changes in policy terms at renewal. Particular focus should be given to exclusions that insurers are likely to add to policies to exclude Covid-19 itself, or similar events. Policy wordings are likely to vary further between insurers and lines of business, so it is crucial that the broker understands, and explain to their clients, the scope of cover available.

In addition, and particularly in relation to small and medium-sized enterprises and those businesses that work within travel, entertainment and hospitality, the solvency of businesses is likely to be under greater scrutiny from insurers. Brokers will need to remind their clients of their duty to provide a fair presentation of the risk and the consequences of failing to do so. Where businesses are struggling in light of the pandemic, limited cover may be available and this will need to be clearly

explained to clients. Brokers may also need to consider whether certain types of insurance are more relevant in light of Covid-19. Examples include cyber cover due to an increase in cyber-attacks and Directors' & Officers' insurance to help protect against personal liability for directors if a company was to enter into administration or liquidation (notwithstanding the temporary suspension of wrongful trading claims).

The Covid-19 pandemic comes against a backdrop of a hardening insurance market for some lines of business, such as professional indemnity. The fallout from Covid-19 may lead to a further hardening of the market in some areas, or restricted cover for particular risks. Again, a decrease in capacity and greatly increased rates in some areas underline the needs for brokers to leave more time to deal with the clients' renewals.

Conclusion

The Covid-19 pandemic brings insurance brokers' duties and obligations into sharp focus, both in terms of dealing with existing queries from their clients and the advice they provide on future renewals. To protect themselves from the risk of claims, brokers need to be carefully considering the practical and commercial implications of the pandemic on their clients.

Brokers are likely to find themselves advising more clients in relation to protecting against similar events and it is crucial that brokers are able to advise on the difference in terms and cover that may be available for a particular client. They will also need to be aware that there may be increased scrutiny on policyholders from insurers and a tightening of some wordings, together with a reduced capacity in certain lines.

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