

TOWERGATE

NEWSLETTER

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SPRING IS THE TIME OF PLANS AND PROJECTS - LEO TOLSTOY

"I'm writing the introduction to this, our Spring Newsletter, as the UK begins to regain normality with the easing of lockdown measures. A relaxation of restrictions that Boris Johnson has said will be 'cautious but irreversible' and led by 'data not dates'.

I hail from rural Wales where spring is the busiest time of year for the farming community. It is the time to plan. To have a thorough inspection of the farm, touring the land, taking a close look at the condition of fencing, outbuildings, machinery and livestock housing. Planning for the season ahead to ensure the safety of farm workers and animals.

After the last year we've all had, the idea that we may be able to plan for our futures again may feel strange, especially as we come to terms with the 'new normal'. Planning in business is essential to success. It creates a focus for the company, uniting employees towards a common goal. Whilst no one could have planned for the Covid-19 pandemic, insurance is about planning to ensure mitigation for the unforeseen.

The pandemic has caused issues in the insurance industry too, leading to under-capacity in the market and a lack of appetite

for some risks. However, you will know from discussions with your Towergate advisors, or from reading the communications we've sent to you, that Towergate is well placed to support you in managing your risks and ensuring you have the right cover to meet your needs, in today's complex world.

Investor in Customers – coming soon

For the third year running we will be sending our clients the Investor in Customers survey. Many of you have taken part in the past, and I thank you for your commitment in time to help us take an objective view of the customer experience Towergate offers. In the first year we were awarded a Silver Accreditation. This is unheard of for a company submitting to the assessment for the first time. Last year, we achieved a gold accreditation, and we hope we can achieve the same result again in 2021. During the challenges 2020 presented, our people strived to offer you an undiminished service,



navigating you through the uncertainty surrounding the events which unfolded. I hope our service and dedication to you allows us to continue proudly applying the Gold Investor in Customers accolade in our communications to you in 2021 and beyond.

We are planning to send you the survey shortly, with full details on how you can take part coming closer to the time – all of us at Towergate would be grateful for your honest and open feedback.

From me and everyone at Towergate, we hope you're well, staying safe and positive and we look forward to continuing meeting your needs and supporting you".

MODERN METHODS OF CONSTRUCTION ADD TO ARSON AND HOT WORKS FIRE RISKS

Arson and hot works are among the most common causes of fire in the UK, whilst modern methods of construction are also a leading factor in many fires. With this as a backdrop, businesses and organisations need to manage and mitigate the risks.

According to the National Fire chief's council, arson and wilful fire raising remain the most common and damaging causes of fire. Over fifty percent of all fires attended by fire and rescue services in 2017/18 were due to arson and the estimated financial loss over this period was between £5.7 bn and £11.5 bn.*

According to Paul Redington, Regional Major Loss Adjuster at Zurich, says, "Malicious or deliberate fires are not uncommon in empty premises. While such fires will remain a significant issue, regardless of the economic downturn, we may see more deliberate fires, particularly if the volume of vacant properties increases."

Schools also at risk

Schools can also be at greater risk of malicious fire setting, particularly during long periods where they are of unoccupied. They can take a number of measures to reduce risk, from reviewing and upgrading building security, to relocating combustible external structures such as sheds, waste and litter bins or temporary buildings, away from main buildings. Organisations should also conduct routine inspections ensuring procedures and maintenance schedules are up-to-date, and implementing effective incident reporting processes.

HOT WORKS

Hot works are defined as any building, maintenance or refurbishment work that requires the application of heat, such as grinding, welding or torch applied roofing and as such represents another major fire risk. Zurich Insurance' claims data reveals that 15% of all fires in commercial and industrial

properties are caused by hot works.*

Poor practices and processes can lead to explosions as a result of sparks coming into contact with flammable gases or combustible dusts and injuries including burns and inhalation of fumes.

To mitigate the risks posed by hot works, organisations need to:

- Fully understand the nature of the works taking place and the specific risks they pose
- Select experienced contractors who will select the lowest risk methods
- Remove all combustible materials from the site vicinity and apply the right controls
- Maintain fire watches during breaks in the day and after hot works have finished
- Establish proper procedures for dealing with an emergency

This is not an extensive list of the measures that can be taken and new technology may help reduce the risks of hot works in the future.

CHANGES TO THE BUILT ENVIRONMENT

More and more organisations, including local authorities and housing associations, are embracing modern methods of construction, (MMC). New technologies are used in the construction of a variety of buildings, from small blocks of flats, to education, health and leisure centres. As construction practices and technology continue to develop rapidly, taller and more complex buildings are being erected using MMC.

The use of MMC can be particularly attractive to local authorities and housing developers looking to construct public buildings and

social housing developments in the most effective manner, whilst meeting the latest standards of sustainability and environmental performance. Although there are many benefits of MMC, including reduced costs, minimising waste, ensuring greater consistency in quality standards and satisfying green energy requirements, they can introduce added risks. There is potentially a reduction in resilience when compared with more traditional builds, both during construction and throughout a building's lifetime.

PRE-FABRICATED DESIGNS

Advances in pre-fabrication are enabling larger and more complex building components to be manufactured off-site and assembled on-site. Ranging from wall panels to whole sections of buildings, including plumbing and electric fittings, this can make construction quicker, cheaper and more accurate. However, there are additional risks associated with these aspects of MMC. For example, voids between modules can allow fire, water and smoke to spread through a building.

CHANGES OF USE

In the modern built environment, many buildings are changing use which can present new fire risks. Paul Redington explains, "A few years ago we saw a number of former refrigerated warehouse units being converted into offices and other uses, but with the original combustible insulation in place. That situation has changed, but we need to avoid sleepwalking into a similar scenario as other buildings are re-purposed."

**Zurich Municipal Whitepaper, 'The human impact of fire' December, 2019*

RISING CREDIT RISKS WARNING

Ratings agency Moody's has given a stark warning that the UK should anticipate a rise in credit risks given the prospect of an unwinding of the level of government fiscal support measures.

It adds that weak earnings and solvency concerns will weigh hard on hard-hit companies, while higher debt levels will erode the positive effects of low interest rates on debt-servicing capacity.

The latest report from R3, the insolvency and restructuring trade body, shows that corporate insolvencies are on the rise again increasing by 37.8% to 1,228 in December 2020 compared to November's figure of 1,125.

Late payments and how to protect your business

Late payments are a sign that a customer may have a problem and for many they become accepted as another operating cost. Big businesses incorporate automation, prediction, advanced analytics and artificial intelligence into their management tools to identify the risk.

However, many SMEs will be relying on looking at the debtor ledger to identify late payers, and may not be looking at their

industry, trends and other signals that indicate business creditworthiness. What are the tools at their disposal?

- **Get to know the customer.** Understand the business sector, risk level and what credit terms have been offered.
 - **Manage cash flow.** Review payment schedules with key customers. Potentially agree price discounts with large firms in an effort to reduce their 60/90 day credit terms to achieve better cashflow despite discounting.
 - **Invoice correctly and promptly.** Dating invoices on the first day of the month can often turn a 30-day invoice into 60 days. Understanding how a customer pays and bill them accordingly. Maintain customer documentation and ensure the details are correct. If a customer has a vendor portal, log in and check invoice status frequently.
 - **Chase payment regularly.** Chasing payment helps keep your business front
- of mind and build relationships with accounts payable teams. When they get to know a vendor, accounts payable staff can be empathetic, helpful and loyal when they know how a business operates.
- **Outsource debt collection.** Invoice financing or factoring is an option if a business doesn't have internal resource, but it can be costly.
 - **Get trade credit insurance.** Trade credit insurance provides cover for businesses if customers who owe money for products or services do not pay their debt or pay them later than payment terms. This could be caused by customer bankruptcy, political risk or other reasons. It gives businesses the confidence to extend credit to new customers and improves access to funding. There will be a number of trade credit options to suit businesses and customers. Trade credit insurers review and report on risk by business sector right down to individual customer level.

If you would like to know more about how to protect your business against corporate insolvencies, liquidations or bad debt talk to your usual Towergate Adviser, or you can speak directly to our experienced credit specialists on 07484 072 790.



COVID VACCINATION AND TESTING EMPLOYMENT LAW AND YOU

With over **31 million** UK citizens now having had their first Covid-19 jab, the question being asked increasingly frequently is whether employers can require their workforce to get vaccinated.

All employers are under a duty to protect the health and safety of employees and provide a secure working environment under health and safety legislation. An employer will be expected to have undertaken a risk assessment and control measures should include employees being vaccinated as this is one of the clearest ways of protecting individuals from serious illness. Testing, if available should, be considered.

Employers should strongly encourage employees to be vaccinated where they can.

Can an employer require an employee to be vaccinated?

This is an untested area, and has been discussed widely in the media. Relevant factors to consider could be:

- The risk profile within the workplace itself. For example, a care home may have a strong argument that in order to protect staff and vulnerable service users, an employee cannot come into work unless they have been vaccinated or have a valid reason for not doing so.
- The workplace itself means having to work in small workspaces, so it is not possible to maintain recommended social distancing measures.
- Whether there is a need for an employee to be vaccinated in order to do their job, for example, if they needed to travel abroad and the country to which they were going required entrants to be vaccinated.
- The services carried out by the employer will be severely affected if lots of employees are off sick with Covid, the business may not be able to supply services if staff are off sick for an extended period of time.

Does requiring an employee to be vaccinated breach their human rights?

Article 8 of the European Convention of Human Rights protects the right to private and family life. The right for

an individual to choose whether or not to be vaccinated is likely to fall within this right. It is possible to interfere with this right "in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others".

Therefore, if there is a real need to protect health or economic wellbeing, it may be possible to override Article 8. It requires a careful balance between the rights of the individual and employer which could also include those of service users.

On what basis could an employer require staff to be vaccinated?

Employers could only require employees to be vaccinated where it is identified within a risk assessment as a necessary requirement. If it is identified as a requirement, then it may be that an instruction to staff will amount to a reasonable management instruction.

What happens if an employee refuses to be vaccinated?

If an employee does refuse, you should adopt the process as follows:

- Firstly, you will need to explain why the employee needs to be vaccinated. Any action against the employee is based on the fact that the instruction is reasonable. The employer's business, the employee's role and the reason why vaccination is necessary, will need to be considered carefully before arriving at a conclusion. If an instruction to be vaccinated is unreasonable, no further action can be taken.
- Investigate why they are refusing. This might be because they have been advised not to due to health issues such as having previous experience of a serious allergic reaction, pregnancy, or because of religious beliefs.

- If refusal is due to perceived risks of taking the vaccine or conspiracy theories promoted on social media, take steps to understand fully the individuals concern. Alleviate them using official information and explain why their role requires them to be vaccinated.
- If the employee continues to refuse, explain that other options will have to be considered. These include finding an alternative role for as long as the risk assessment identifies vaccination as a required measure; not being able to attend work which will be unpaid; the possibility of disciplinary action, which could result in dismissal.

As mentioned earlier, this is an untested area and it is not known how tribunals will approach this issue. The employer should make sure that the requirement to be vaccinated is backed up with as much evidence as possible, and that it is reasonable.

Protected areas

If the employee refuses to be vaccinated due to pregnancy, disability or religion or belief, they will be protected from discriminatory treatment and should not be disciplined. A business may have to allow them to continue to work if the risk assessment allows, tell them that they cannot work and would be on unpaid leave, (unless they are considered sick in which case they would be entitled to SSP). However, pregnant employees who cannot work due to health and safety concerns will be entitled to full pay. In all of these cases it is important alternatives are sought, including working from home or making adjustments to their role.

Can employers make workplace Covid-19 testing mandatory?

Community testing initiatives or implementing the workplace testing which is now available to businesses that remain open with more than 50 employees, may reduce the risk within the workplace.

It is likely that only where it is necessary to do so because of the risk profile of the business, or the nature of the employee's role, that testing could be made compulsory.

Health and safety consultation obligations

If an employer is considering introducing any measures affecting the health and safety of employees, there is an obligation to consult with staff or health and safety representatives before implementation. Introducing a vaccination and testing policy, particularly if they are going to be mandatory, is likely to trigger this obligation.

Data protection

Whenever an employer obtains information about an employee's vaccination or testing status, they will be processing special category personal data. It will be important to comply with the Data Protection Act 2018 and the GDPR in this regard.

Text provided by Ellis Whittam. Ellis Whittam is Towergate's Employment Law, HR and H&S partner. If you would like to know how they can help you ensure regulatory compliance for your business, speak to your usual Towergate adviser.



WHIPLASH REFORMS - AN OVERVIEW

Legal and rules changes associated with Whiplash Reforms have now been announced. Whilst the reforms will come into effect on 31 May, it will take a bit of time for the insurance industry to fully understand the implications of these reforms. However, what is very clear is the importance of early engagement with your insurers when an incident has occurred, we thought it useful to give clients an overview of the position.

Towergate's Head of Claims, South, Julie Newble writes:

One of the biggest challenges that the insurance industry will face in 2021 is the change to the Civil Procedure Rules concerning Whiplash injury.

To explain the background, motor premium costs are far too high and the cost of whiplash claims to policyholders amounts to an average of £90 per policy. Therefore, the intention of the reforms is to significantly reduce, whiplash claims in order to save money.

These changes will no doubt impact the way in which road traffic accidents are dealt with by insurers, and provide unrepresented claimants direct access to the new portal.

During 2020, and into 2021, we are all adapting to the new way of remote working. This has also resulted in changes to our litigation system.

For example, Court hearings are being held remotely and this is likely to continue to be the case in the future.

The speed at which cases will be brought to court and the fact that hearings will be carried out remotely, will pose many challenges in assessing the credibility of a witness. Likewise, remote medical examinations may pose a threat to being able to successfully identify fraudulent claims.

The reforms involve dealing with simple road traffic accidents through different Ministry of Justice Portals, with each having differing protocols, impacting how insurers will need to respond.

We are in constant communications with our insurer partners to better understand the implications this will have. Many are reviewing

their working practices to ensure they are ready for the new protocols. Only

now that the new reforms are being introduced can Insurers finalise their approach. The

priority will be for them to scrutinise the new rules and related protocols, and be sure that systems, policies, and procedures

are thoroughly prepared and tested.

The insurance industry will need our/your support to ensure only valid injury claims are paid and fraud is kept to a minimum. One crucial aspect of this will be obtaining our Policyholder's/driver's version of events, to include all available detail and a signed statement of truth to be collated immediately, the importance of 'Day One' Incident reporting has never been more crucial, to enable your insurers to make that liability decision within the 30 days required.

The difference being is if a liability decision is not forthcoming it will be assumed that the insurer has admitted liability and will automatically accept the claimant's claim, but also where a claim is to be defended the insurers have to upload the collated claim detail including a signed statement of truth into the portal within the 30 days, there are a few very strict exceptions to this timescale but only for 'good reason' this being bereavement, sickness, holidays etc. In the event of one of these insurers will still have to prepare a witness summary to be served, so they will still need full incident circumstance, noting the statement of truth will still be required as soon as possible.

As a result, we cannot stress enough the importance of you reporting any motor incidents immediately on day one, regardless of how minor you deem the incident to be.

Please talk to your usual Towergate representative to ensure you are utilising the best methods of incident reporting.



The information contained in this bulletin is based on sources that we believe are reliable and should be understood as general risk management and insurance information only. It is not intended to be taken as advice with respect to any specific or individual situation and cannot be relied upon as such.