Autumn 2022

Covernotes

Explaining issues that affect your insurance

In this issue

Has a Silent Change Impacted Your Cyber Cover?

Think you're covered for a malicious or non-malicious cyber attack on your business? How sure are you? When did you last look at your policy wording to check what it says? Have you consulted a broker and asked them to confirm exactly what your situation is?

These are key questions in 2022, because of the insurance industry's recent attempts to eradicate what is known as 'silent cyber' or 'non-affirmative' cyber cover from within policy wordings. Whatever your general property, PI, marine, or liability policy may once have said, it usually would have carried no specific mention of cyber-attacks in the warning, either to include cover or exclude it. This made the wording 'silent' as to whether cover was provided or not. Given recent changes, what it should do is clearly and categorically state whether cyber insurance protection is included or excluded.

The changes have been implemented following the Prudential Regulation Authority (PRA) becoming concerned about silent cyber within policies, back in 2016. The PRA recognised many policy wordings could be interpreted in different ways, leaving both insurers and insureds in potential financial jeopardy when claim scenarios arose.

In 2019, to attain clarity on the amount of cyber protection existing within policies, the PRA asked insurers to identify, quantify and manage their silent cyber risks and develop an action plan to tackle this issue. Shortly after this, Lloyds of London instructed its members (syndicates) to clearly state within their policies whether coverage is provided for losses caused by cyber risk in two categories: malicious acts (cyber-attacks) and non-malicious acts including accidental acts or errors. A phased approach to changes in policy wordings was taken and all policies should now have been addressed.[1]

The move was much needed. Quite simply, insurance wordings had not kept pace with the increasing sophistication of cyber criminals' tactics. With cyber criminals able to inflict not just losses on computer hardware, software and infrastructure, but on property, manufacturing systems and global supply chains, to name but a few possibilities, it was time to cut out the ambiguity.

Fundamentally, the change should be viewed positively, as long as businesses are aware of it and take the right steps to ensure they are covered for any cyber-related losses. It should help to better control premiums, preventing unexpected insurer losses from silent cyber wordings. It should encourage businesses to take ownership of the issue and purchase a standalone cyber insurance policy, if their general insurance covers would not compensate for cyber-related losses.

However, although 81% of UK businesses told the Cyber Security Breaches Survey 2022 that their board sees cyber security as a high priority, only 5% currently have standalone cover. Around 43% says they have 'some form of cyber insurance',[2] presumably being reliant on the more general types of policy within which silent cyber has been addressed and within which new exclusions may specifically apply.

Businesses need to address this situation fast but do so with an expert's help, working with their broker to identify what the policy wording now says and what the ramifications of the wording may be.

With the changed approach to cyber within policy wording, a general property policy may no longer cover an insured in a variety of instances, for example, if fire damage resulted from a hacker's actions – a cyber-related cause. A marine cargo policy may similarly refuse to pay out if damage to a vessel resulted from malware disrupting its GPS-guided navigation systems.

Quite simply, in some policies, if cyber is found to lurk anywhere within the chain of causation behind a loss, there could be a refusal to pay out.[3]

Businesses should note that some wordings, introduced to now exclude cyber risks, could also, unintentionally, create other gaps in cover. Reviewing your new wording is essential.

This highly complex area of risk needs a professional broker's insight and requires a thorough examination of exposures. Standalone cyber insurance policies come in various guises and not all will offer the comprehensive safety net that businesses require. For instance, not all provide access to IT specialists, who can quickly identify the issues caused by hackers and get systems swiftly cleansed and restored. Not all policies offer access to crisis PR specialists, who can help contain reputational damage suffered after a breach of company computer systems.

Silence was not golden when it came to silent cyber but it is essential that the wordings now existing within policies do not catch you out. Talk to your broker today and ensure you plug all the gaps in the right way.

[1] https://www.wtwco.com/en-GB/Insights/2020/01/cyber-risk-poses-ongoing-challenge-for-first-party-property-damage-lines-of-business
[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1089586/Cyber_Security_Breaches_Survey_2022_Infographic-Micro_Small_business.pdf
[3] https://www.wtwco.com/en-GB/Insights/2021/01/silent-cyber-what-you-need-to-know

Forklift Focus Can Help Build a Safety Culture

The very fact there is a 'National Forklift Safety Day' speaks volumes about forklift dangers. The safety-focused initiative, championed by the UK Material Handling Association (UKMHA) highlights the importance of operator training and that being struck by a moving vehicle is the second most common fatality at work, with 25 deaths in 2020/21 alone.[5]

Whilst it requires focused effort, forklift safety can do the heavy lifting within workplace health and safety management, becoming the central focus of a whole safety culture within a warehouse, food and drink or retail environment.

This is essential. Forklifts are covered by various health and safety laws.[6] The Health and Safety at Work etc Act (1974) and the Management of Health and Safety at Work Regulations (1999) both stress the importance of instruction, training and supervision.

The Provision and Use of Work Equipment Regulations 1998 (PUWER) require all equipment users, including forklift drivers, to be adequately trained. Sites using forklifts must also be LOLER (Lifting Operations and Lifting Equipment Regulations 1998) compliant, ensuring competent people plan and supervise operations and commission statutory forklift examinations every 12 months (goods-lifting) and six months (people-lifting equipment).[7]

The L117 Rider-operated Lift Trucks Approved Code of Practice[8] is also a Health and Safety Executive safety code with special legal status.

Things frequently go wrong around forklifts. Operators need training in both general forklift usage and specific vehicle operation. They must appreciate how forklift manoeuvres fit into the general environment of racks, gangways, vehicle flow or one-way systems, loading bays, slopes, warehouse surfaces and areas impacted by weather conditions.

Operators need to be aware of speed limits, pedestrian crossing places, blind spots, areas where lighting or sunlight could present a visibility issue and places where overhead power lines can endanger life.

They need to understand the impacts on vehicle stability of lifting different weights and dangers resulting from collisions with, or damage to, certain stock.

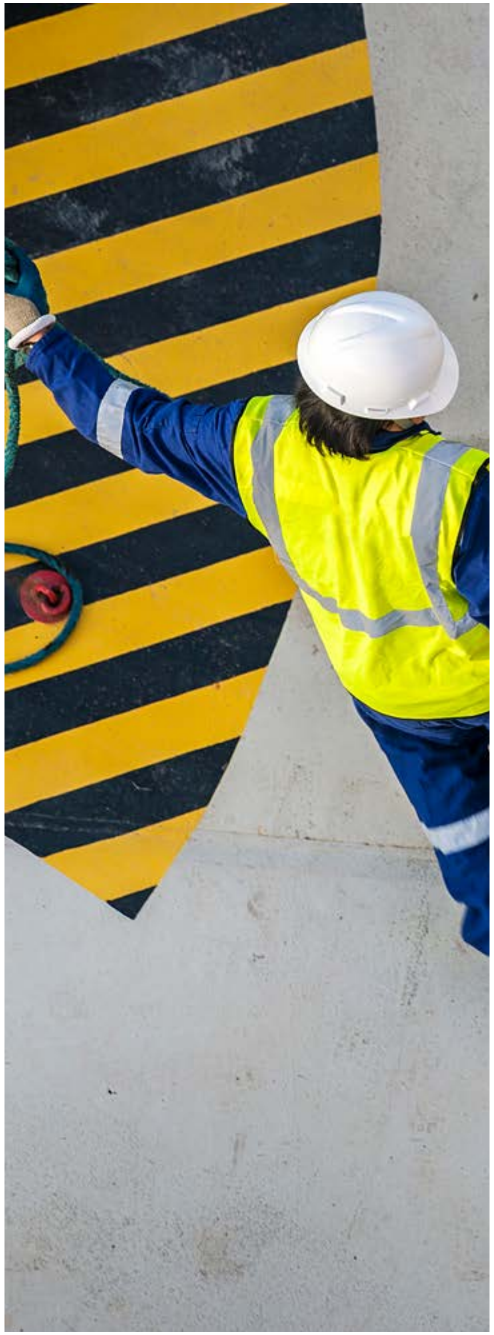
Accidents can involve crushing, trauma and loss of limbs. Vehicle topple or tipping, operators falling off trucks not intended to carry passengers, lack of use of safety restraints, pallet falls and hitting pedestrians or other vehicles within the warehouse 'environment', are all common incidents.

Employers should remember their duty of care extends to agency workers and not solely employees. All require the same training and, if language barriers necessitate, access to visual training materials.

Other safety measures could involve fitting vehicles with reversing cameras, maintaining tight key control systems to prevent unauthorised forklift use, charging batteries only in well-ventilated spaces and regularly maintaining forklifts, whilst also monitoring for vibration or posture health impacts. Making everyone collectively responsible for spotting hazards can be advantageous.

Get things wrong and death, injury and a hefty health and safety fine, even if it is only a 'near miss' incident, can result. Financial penalties could be applied to a director or manager's personal finances, if negligence has occurred.

Assess all risks, stay complaint and train, train, train. Prevention of forklift incidents is better than cure.



[5] https://nationalforkliftsafetyday.co.uk/nfsd-2022/
[6] https://www.bita.org.uk/wp-content/uploads/2019/06/BITA_NFSD_Booklet_2019.pdf
[7] https://www.hse.gov.uk/work-equipment-machinery/thorough-examinations-lifting-equipment.htm#reports
[8] https://www.hse.gov.uk/pubns/priced/l117.pdf

How Risk-focused Technology is Driving Better Fleet Futures

Within the world of fleet transport, insurance is now not just a means through which to cover losses incurred through accidents and incidents but also a way to keep drivers and the public safer and simultaneously reduce emissions.

The great news for businesses operating fleet vehicles is that new-look insurance approaches can help make drivers more aware to their behaviour. This in turn can contribute to lower fuel costs as the driver takes more note of their speeds and become less erratic as they see the practical benefits of smoother driving. This increased awareness can help with a transition to a green fleet - something required by 2030.Whilst insurance has lagged behind sectors such as banking, in terms of digital transformation, that is all changing thanks to the policies on offer from 'insurtech' businesses.

What is on offer from these tech-friendly insurance companies, including names such as Zego, Cuvva, RoadHow and Lightfoot will not suit every fleet operator. However, those for whom the technology works, can secure both operational improvements and cost savings.

One benefit can be a reduction in overall insurance costs, if a fleet is currently paying for insurance regardless of whether or not vehicles are parked up for much of the day.

Some businesses only have vans carrying out an irregular delivery service, so traditional insurance may not be in their interests, when a pay-as-you-go insurance option is available instead. This calculates premiums according to vehicle usage. The premium can be solely based on vehicles' time on the road and how they are used, or can have a fixed element, plus usage-only part.

The beauty of this type of insurance cover lies in both transparency and avoidance of over-insurance. Time spent behind the wheel, and driver behaviours detected by the fitted technology, determine the premium, unlike traditional policies which focus on driver profile, driving record and postcode area. Fleets do not pay for cover on the basis of a national average; this is completely tailored insurance.

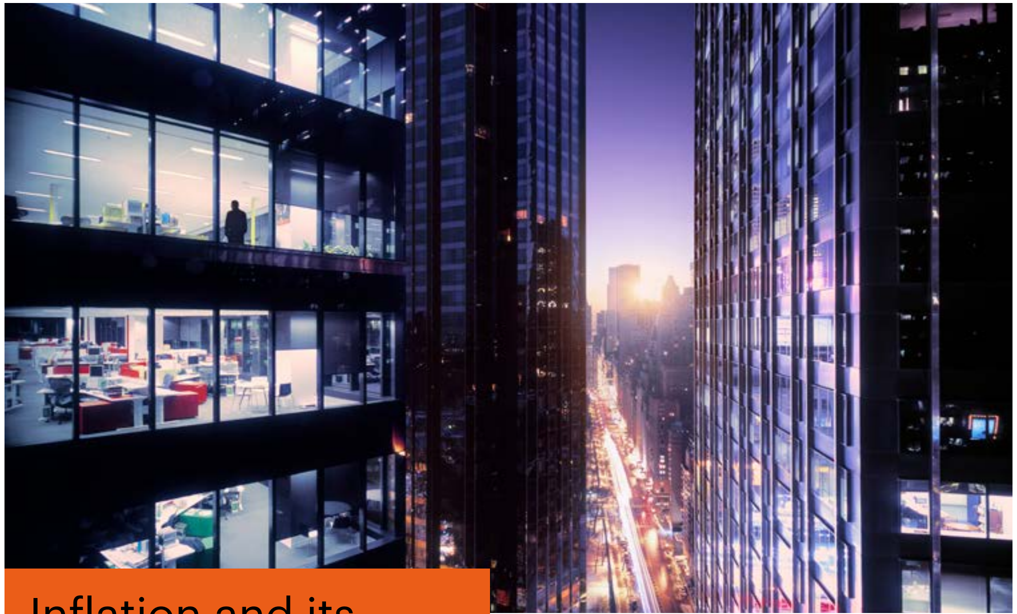
Analysing on-the-road performance is also the premise behind other technologies, often utilising Artificial Intelligence (AI). Driving efficiency and safety is being driven by in-vehicle technology that analyses aspects of driving such as gear selection, engine load and payload and helps drivers to mostly drive within the 'sweet spot' – where maximum efficiency and safety lies - whilst still accelerating and reacting when necessary.

With many behaviours analysed by this type of technology not only influencing the driver's risk, but also the vehicle's fuel consumption, there is every opportunity to use such technology to reduce fleet overheads. Drivers are also empowered and can strive to achieve better performance because the technology is constantly measuring their behaviour and can contribute towards potentially lower premiums because of the drivers good practice. The payback for fleet managers comes in the form of mile-per-gallon gains, dramatically reduced accident rates and less vehicle downtime.

Discouraging idling means fewer emissions – contributing to the battle against climate change. With this type of technology also alerting EV vehicle users when an electric vehicle charging is required, 'forgetfulness', a fleet 'fear' of 67% of fleet managers with regard to electrification, is removed.[11]

What suits your fleet is dependent on your operation. Pick up the phone and talk to your broker about your individual risk and vehicle usage and they will steer you towards the best option for you.

[11] https://www.lightfoot.co.uk/news/2022/01/27/the-4-key-challenges-of-ev-fleet-transitions/



Inflation and its Insurance Impacts

The UK inflation rate hit 9.9% in September 2022 and is predicted to reach 18% in 2023.[12] The cost of living crisis is seldom out of the headlines and the ramifications of the war in Ukraine, global supply issues and shortages of key raw materials and components, including semi-conductors, are being felt across most industrial sectors.

In a survey, 78% of SMEs said they see the cost of living crisis as their greatest threat[13] but how many have actually considered what it means for their insurance protection?

Consumers in general offer some indication of the attitude towards insurance, with seven-in-ten retail consumers (globally) suggesting they will cut back on insurance.[14] The temptation could be to forego some covers, reduce cover limits and deliberately underestimate sums insured.

Whilst this creates greater exposures at any time, it is a particularly dangerous strategy during a time of rampant inflation. Even as things stand, many types of business should be reviewing their policies' sums insured and considering whether to increase them, not decrease them.

This is particularly true for any construction-sector business. Between May 2021 and May 2022, the All Work construction material price index rose by 27.2%.[15] The value of contracts underwritten by Construction All Risks and Erection All Risks policies is particularly affected and insureds could find themselves underinsured, unless they review their cover.

The motor sector should also be cautious. With pressures on the supply of new cars, due to chip shortages and production downtime globally, the price of used vehicles has risen significantly. Any garages holding stocks of used vehicles should ensure their sums insured are sufficient and would stand up to scrutiny, in the event of a claim.

The ramifications of being underinsured are profound, putting a business at risk of having a claim completely turned down, with cover cancelled, or only being paid out partially, in a ratio linked to the degree of underinsurance.

Other alarm bells are sounding too. Motor claims costs are rising significantly due to inflationary pressures on spare parts, so a rise in premiums is anticipated.[16] Higher interest rates, accompanying the current inflation levels, have put pressure on property market companies, with an increase in insolvencies in this sector. Experts believe we could see an increase in Professional Indemnity claims against accountants and contract administrators who overlooked the potential signs of insolvency of their property clients.[17]

Inflationary pressures on raw material costs and supply chain issues will also bring project delays and business interruption. Companies must check that they are insured for such disruption and able to absorb delays. Having trade credit insurance, to safeguard against supplier insolvency, is also something to consider.

The domino effect of global forces impacting on businesses throughout the economy is something of which all businesses should be aware. Quite simply, now is not the time to reduce insurance covers or give insurers reason to believe that sums insured are not adequate.

[12] https://www.theguardian.com/business/2022/aug/22/uk-inflation-will-hit-18-per-cent-in-early-2023-says-leading-bank-citi-gas-electricity
[13] https://smallbusiness.co.uk/nearly-80-of-smes-see-cost-of-living-crisis-as-biggest-threat-2561585/
[14] https://business.yougov.com/content/42969-more-one-ten-consumers-globally-will-cut-back-insu?utm_source=newsletter&utm_medium=email&utm_campaign=NL-2022-06-09-Global-Sector-News letter&mkt_tok=NDY0LVZISC05ODgAAAGFdt1R1RRF-d6lB6BJnrbzsEPA_0nLp0kASOSYO1UybqxKJby-H6H7HUQYy_UbQoiV6_uWImvVDewK2WjdrSIT-0AFj4DLM1a3i7LTw0KGsr-bWw
[15] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1087494/22-cs7_-_Construction_Building_Materials_-_Commentary_June_2022.pdf
[16] https://www.ey.com/en_uk/news/2022/07/uk-motor-insurers-achieve-profit-for-second-year-running-in-2021
[17] https://www.allianz.co.uk/content/dam/onemarketing/azuk/allianzcouk/broker/docs/support/uk-economic-outlook/allianz-economic-insights-july-22.pdf

Daines Kapp Insurance Brokers Ltd
Daines Kapp House 4 Baldock Street
Ware
Herts
SG12 9DZ

Tel: 01920 484844 Fax: 01920 484833

www.daineskapp.co.uk
info@daineskapp.co.uk

Authorised and regulated by the Financial Conduct Authority

FPS3616242 WTW_69358/09/22