TOWERGATE
INSURANCE BROKERS
NEWSLETTER
ISSUE 10 SUMMER 2019

CONSTRUCTION INSURANCE FOR PROFESSIONALS

HSE INTERVENTION ENFORCEMENT NOTICES ON THE INCREASE

TOWERGATE INSURANCE BROKERS WINS INDUSTRY AWARD

RANSOMWARE ATTACKS SKYROCKET IN 2019

So-called 'ransomware' attacks against businesses have surged in 2019*, underlining the need for continuing vigilance against the growing threat of cyber attack.

Ransomware is a type of computer programme that infiltrates an IT system and threatens to publish the victim's data or block their access to it by encrypting files until a sum of money is paid.

A typical ransom demand is requested within 48 hours and is aimed lower than the cost/aggravation of being locked out – however the perpetrators are increasingly less willing to unlock files and may simply increase the ransom to extract further assets.

The attacks can be made via website and software vulnerabilities, but in the majority of cases they are email born attachments or links, so the human error factor is more difficult to eliminate.

According to insurer Beazley's Breach Response (BBR) team, ransomware attack notifications against clients skyrocketed 105% in the first quarter of 2019 over the same period last year.

"Not only has the frequency of attacks increased, but attackers are shifting focus, targeting larger organisations and demanding higher ransom payments," said Beazley.

"Ransomware attacks remain commonplace and tend to hit unsuspecting small businesses", said Beazley.

In addition, sophisticated attack groups associated with the ransomware variants Ryuk and Bitpaymer ransomware are targeting larger organisations through 'phishing' emails and tricking users into deploying Trojans- malicious viruses masquerading as something harmless which can disable IT systems.

Increasing cost

The average ransomware demand reported to the BBR Services team was 93% higher in the first quarter than the 2018 average. Indeed, according to incident response firm Coveware, the average price of ransoms in the first quarter increased by 89% over the fourth quarter of 2018.

"We have witnessed a considerable uptick in notifications of both ransomware and banking Trojans in the first few months of this year," said Katherine Keefe, head of BBR Services. "Banking Trojans are particularly troublesome as they are often more difficult to eradicate from an infected IT system than other forms of malware.

Beazley's findings were echoed in recent research released by Databarracks, which suggests that over a quarter of UK firms have suffered a ransomware attack over the past year.

The business continuity provider's Data Health Check survey, based on interviews with 400 IT decision makers, revealed that 28% of UK organisations have been hit by ransomware over the past 12 months.

High profile

Such attacks are becoming increasingly high profile, with Britain's largest private forensics provider recently paying a ransom to hackers after its IT systems were brought to a standstill by a cyber-attack.

Eurofins, which is thought to carry out about half of all private forensic analysis, was targeted in a ransomware attack on 2 June, which the company described at the time as "highly sophisticated".

Earlier this month, St John Ambulance was also the victim of a ransomware attack and has reported the incident to relevant regulators, who are now assessing if any further action is needed.

The first aid charity said the attack took place at 9am on 2 July and temporarily blocked it from accessing data that its customers had given it when booking a training course.

The cyber attack relates to the details of everyone who has opened an account, booked or attended a St John Ambulance training course until February 2019. The data that was affected includes the names of the course attendees, their contact details, invoicing details, and, where relevant, driving license data.

Protecting your business against the threat of ransomware or associated cyber attack is essential for any risk-aware business.
For more information please visit **https://www.towergate.com/additional-services/cyber-risk-assessment**

* SOURCE: Beazley

CONSTRUCTION INSURANCE FOR PROFESSIONALS: SHOULD I WORRY?

A number of scare stories around the availability of Professional Indemnity insurance for those working in construction-related businesses have surfaced in the UK press this year.

Professional Indemnity insurance can cover compensation payments and legal fees if a business is sued by their client for an alleged mistake they have made in their work. The compensation payment will usually take into account the financial loss that the client has suffered.

According to London-based insurance consultant, Mactavish, for example, construction firms face "sharply reduced cover levels irrespective of cost", which could disqualify them from accepting new contracts, drive them into non-compliance with existing contracts, or even prompt a distressed sale of the entire company.

According to Mactavish, the changes are being caused by the ever-increasing complexity of construction projects, and the difficulty insurers face in pricing their risks.

The company has even suggested that some construction-related businesses face "exposure to wild, punitive shifts in pricing and available limits, particularly pronounced in blackspot sectors".

As we have previously suggested, it is no secret that PI insurance in general has been one of the underperforming business lines across the industry in recent years, and there is a drive throughout the market to make these lines profitable in the long term.

2017's Grenfell Tower disaster has led to criticisms of both building regulation and fire safety, leading to grave concerns about the competency of the construction industry in general.

Coupled with high profile company failures, with the possibility of more to come, then it is understandable that some insurers are uncomfortable offering cover in the current climate.

However, even though construction PI cover may be more difficult to find at present, and will come at a higher price as premiums rise, you can put yourself in the most advantageous position at renewal by following these simple steps:

- **Give yourselves plenty of time before renewal. Arrange a pre-renewal meeting 3 months ahead of renewal with your broker**
- **Start collating information – positive risk management details, full details of contracts involving cladding, and all information on previous and current claims**
- **Complete the renewal proposal form and send to your broker along with the detailed information collated**
- **Towergate will review your renewal presentation and advise if they need any other information before they send it to insurers**

Remember, the information you provide is a representation of your business and the more complete and thorough the better.

D&O INSURANCE IN THE SPOTLIGHT AS BA FINED £183M

The liability of directors and associated management has been thrown sharply into perspective by the news that British Airways is to be fined more than £183m by the Information Commissioner's Office (ICO) after hackers stole the personal data of half a million of the airline's customers.

The ICO said that the incident involved customer details including login, payment card, name, address and travel booking information being harvested after being diverted to a fraudulent website.

The fine could have been even higher as under new Global Data Protection Regulations, which came into force last year, the fine could have been as high as 4% of revenues, which could have added another £300m to the bill.

Of course, it is not only the management of the UK's largest corporates that need to concern themselves with issues of potential liability and potential investigations- all companies, whether large or small, need to take their responsibilities seriously.

Directors and Officers' (D & O) insurance in the UK is often part of Management Liability insurance, and covers the costs associated with the defence of an allegation of a wrongful act.

The core purpose of a D&O policy is to provide financial protection for managers against such acts. The D&O policy will pay for defence costs and financial losses. In addition, extensions to many D&O policies also cover costs for managers generated by administrative and criminal proceedings or in the course of investigations by regulations or criminal prosecutors.

Want to find out more? We have long-standing experience of management liability issues and our D&O insurance policy gives you the protection you need for the possible repercussions of acting on behalf of your company.

HSE INTERVENTION ENFORCEMENT NOTICES ON THE INCREASE

From asbestos to dust to workplace transport, the HSE has initiated a number of campaigns lately which will almost certainly see organisations fall foul of the recent increase in Fee for Intervention charges.

It's important to remember that if you are found to be in material breach of health and safety law, you will have to pay for the time it takes the HSE to identify the breach and help you to put things right. This includes investigating and taking enforcement action and is called Fee for Intervention (FFI) – an hourly charge which has recently increased from £129 to £154 per hour.

While the HSE refer to FFI as a 'cost recovery scheme', some believe it to be little more than a money-making ploy by the Treasury to penalise unsuspecting employers. Either way, there's no escaping the fact that despite there being fewer inspections carried out, the number of enforcement notices is on an upward trend. This suggests that the HSE is more rigorously pursuing action against those found to be in material breach of health and safety law. In fact, it has issued on average 9,358 enforcement notices every year over the past five years.

Towergate Insurance Brokers' preferred health and safety risk assessors, Ellis Whittam, recommend that employers understand what the FFI scheme is and how it could affect your organisation.

What is a material breach?

A material breach occurs when the HSE issues a notification of contravention, an improvement or prohibition notice, or a prosecution.

When would a Fee for Intervention be issued?

You may be subject to FFI charges if you are found to be contravening (or have contravened) health and safety laws, and an inspector is of the opinion that you have done so and has notified you of that opinion in writing.

What sort of material breaches incur FFI charges?

The HSE identifies four general areas that might trigger FFI charges:

- **Health Risks** – exposure to harmful substances such as dust, fumes and chemicals, or energy such as noise or vibration.
- **Safety Risks** – where potential effects are immediate due to traumatic injury, i.e. contact with moving machinery, falls form height, contact with vehicles.
- **Welfare Breaches** – requirements that are part of the controls required for health risks, or a basic right of people in a modern society.
- **Management of Health and Safety Risks** – capability to manage risks to a sustainable, acceptable level.

How much are the charges?

The HSE charges £154 per hour for involvement in health and safety material breaches. Here are some examples of costs provided by the HSE:

- Inspection resulting in an email or letter: £750
- Inspection resulting in a notice being issued: £1,500
- Investigation taking four days: £4,000

A full investigation could run to tens of thousands of pounds.

How does my business avoid incurring FFI?

The key is to ensure you are compliant with legislation. Ellis Whittam's health and safety specialists typically discover about 50 breaches on a first visit, of which about half a dozen would attract FFI. In short, the safest approach is to receive competent advice and support to minimise risk to as low a level as possible. If you require hands-on help, Ellis Whittam's tailored, fixed-fee service reduces the risk of enforcement notices by 60%.

Legal expenses insurance can cover up to £5,000 of FFI charges and in the event of prosecution can support the cost of appealing against notices and representing you in court.

For more information or for a full review of your needs, please contact Towergate Insurance Brokers or email TIB@towergate.co.uk

INSURERS SEE LIMITED REDUCED COSTS FOLLOWING RATE CHANGE

In a move which has received widespread criticism, the Government has missed an opportunity to reduce the cost burden for UK insurers- and by association, some policyholders.

The decision relates to the Ogden rate, which is essentially a metric used by insurers to calculate large pay-outs in the event of life-changing motor injuries.

The rate, which is set by the Government, is supposed to represent the net rate of return someone would receive if they invested a lump sum compensation award.

Historically the rate has been positive, reflecting favourable economic conditions.

However, in recent years the rate has actually been negative - which reflects the current more testing economic environment.

What this means is that, with a negative rate, insurers need to provide bigger lump sum awards for an injury victim to achieve the same return on their investment over time.

Insurers have had to pass these costs onto drivers and policyholders in related areas of liability since the rate has changed in recent years.

In the first change since 2001, this rate was controversially slashed by then Lord Chancellor Liz Truss by 3.25 % points to minus 0.75%, effective from 20 March 2017.

Under the latest changes, the applicable to personal injury lump sum compensation payments will move from the current rate of minus 0.75% and move to minus 0.25%.

On paper this looks like good news as it means insurers will face lower costs.

However, the fact that the rate is still negative is simply not seen as good enough by many as the maintenance of a negative rate will continue to leave insurers with a significant financial burden.

Indeed, according to David Nichols, chief claims officer at Zurich Insurance, "the Government's failure to change the discount rate to a balanced level will only serve to increase the cost and, therefore, affordability of certain types of insurance".

"This rate is likely to reduce both market coverage and affordability for higher risk customers such as road hauliers, commercial fleets, young drivers and older drivers," he added. "It will also have a financial impact on public liability cover for the public sector and businesses."

Huw Evans, director general of the Association of British Insurers, labelled the decision "a bad outcome for insurance customers and taxpayers that will add costs rather than save customers money".

"A negative rate maintains the fiction that a claimant and their representatives will knowingly choose to invest their damages in a way that would guarantee losing them money," Evans said.

Meanwhile Charles Ashmore, head of catastrophic injury at law firm DWF suggested that the decision will be seen as "hugely disappointing" by insurers, adding: "It will be considered to be at the very lowest end of expectations and at a level which many believe will still result in overcompensation to claimants."

Your cover

Despite the potential difficulties caused by the Government's decision, as a business you can be assured that as the UK's leading commercial insurance broker we will still be able to find you the most appropriate cover in the market. If you have any queries about how these or any other changes which might affect your insurance requirements please do not hesitate to contact your usual Towergate Advisor.

TOWERGATE INSURANCE BROKERS WINS INDUSTRY AWARD

Towergate Insurance Brokers has won the 'Commercial Lines Broker of the Year' award, at the prestigious British Insurance Awards.

The judges praised Towergate 'for its excellent level of service, dedicated support and specialist consultancy services'.

They went on to say: 'Combining local understanding with sector expertise, Towergate Insurance Brokers focussed on advice over price and provides its Clients with honesty, proactivity and tailored expertise.

A dedicated online risk management service offers health and safety, HR and employment law advice, multiple accredited risk management training courses and a helpline, should the unexpected happen.

Client Risk Alerts and interactive campaigns inform Clients on underinsurance and emerging risks, while the broker's own business interruption calculator can identify gaps in cover and weaknesses in Client's insurance programmes, and a one policy administration system across the business allows teams to react efficiently.'

On winning the award, Towergate Insurance Broker's CEO Joe Thelwell said, 'We're delighted to receive this award. I want to thank all our people in our local offices, who have worked as a team, developed real relationships and delivered the best technical advice to make this possible. Over the past five years we've got better, faster, stronger and scooping this award is a testament to our growth'.

Photograph courtesy of Insurance Post.

Collecting the Award for Towergate Insurance Brokers, l to r: Paul Choudhry (host), Joe Thelwell (CEO), Penny Bishop (Broking Operations Director), Russell Collier (Regional Managing Director), Scott Egan (CEO UK&I, RSA Group), Mark Brannon (National Commercial Director).

Towergate Insurance Brokers is a trading name of Towergate Underwriting Group Limited. Registered in England with company number 4043759.
VAT Registration Number: 447284724. Registered Address: 1 Minster Court, Mincing Lane, London EC3R 7AA. Authorised and regulated by the Financial Conduct Authority.

towergate
Insurance Brokers