



RiskBox

Business Interruption and COVID 19

Mini Guide

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Business Interruption and COVID 19

Introduction

This is a guide for businesses to work out whether they might have a valid claim for Business Interruption

It isn't insurer specific and is therefore quite general in nature. So it won't be perfect and there may be some fine print in your own policy which may affect things

To use this guide you need to have both your Policy Schedule and Policy Wording to hand, so you can cross-refer as you go through the four steps below

At the end of it, you should at least know if you have a decent chance of claiming, and whether it would worthwhile

Step One

Do you have Business Interruption cover?

Pull out your Policy Schedule and check to see if it includes Business Interruption. This cover is not always included, it varies quite a lot and normally attracts an additional premium, so some businesses choose against insuring it

It is usually simple to locate as it will be clearly detailed on the Policy Schedule. If you don't have this cover then you won't be able to claim under your insurance for the impact of Coronavirus to your business

Types of Business Interruption

There are various types of cover that you may have, but generally they will be one of the two core ones below, or a combination of both:

(1) Compensate your business for a decrease in turnover caused by certain insured events, whether that is as a loss of revenue, or a reduction in profit

(2) Pay certain additional expenses your business incurred to keep running, again only where caused by certain events

The events that trigger Business Interruption usually mirror those that relate to the property you insure, such as fire, theft and flood, and therefore normally involve some form of damage

This brings us to Step Two

Step Two

Do you have the relevant extensions?

You will need the Policy Schedule for this step as well, and possibly the Policy Wording too, as some insurers do not list these extensions on the Schedule. Check both

Business Interruption normally includes a few extensions, and although there are some commonalities, they do vary. These extensions normally have inner limits, and usually no more than £100,000

Some of these extensions do not require physical damage to the insured property, and are triggered due to various other events. However in order for there to be any chance of cover under the current Coronavirus lockdown you need to have at least one of the following:

Public Authorities

This is designed to respond where the premises cannot be used due to an incident which forces the premises to close. This can be for things such as food poisoning or a murder on the premises

Non Damage Denial of Access

This is designed to respond where the local authority prevents or hinders access to the premises following an incident within the immediate area. An example of this could be a gas leak or suicide nearby, leading to the closure of the surrounding streets

If you don't have either of these extensions within your Business Interruption you won't be able to claim under your insurance for the impact of Coronavirus to your business

Step Three

Are diseases included/excluded?

We have now moved from the Policy Schedule to the Policy Wording

The next aspect to check is whether your Business Interruption cover includes the impact of diseases.

Public Authorities (Included?)

Taking the Public Authority extension, you are looking for the Policy Wording to explicitly state cover is included for Notifiable Diseases; those which if they were to occur you would be obliged to notify the local authorities (Covid 19 has been confirmed as one such disease)

This would be found under the Public Authority extension section of the wording, noting sometimes insured diseases are referred to slightly differently, for example they could be referred to as "human contagious diseases"

Non Damage Denial of Access (Not Excluded?)

This extension works differently, as diseases are not normally referred to specifically.

For this element you need to check both the Business Interruption exclusions, and the General Policy exclusions, to see if there is any form of exclusion for Diseases, whether notifiable or not

If there is an exclusion you need to check if it would apply to Covid 19. For example, if the exclusion referred to all Notifiable Diseases being excluded, then there would be no cover for the current situation. The same would apply if there was a specific exclusion for Pandemics.

However, the disease exclusion could refer to certain specific diseases being excluded, such as AID's. In that instance, as long as COVID 19 (or similar) was not listed then cover should still apply

If you've passed through this with cover still intact, then you can move on to Step Four

Step Four

Is COVID 19 excluded?

We are still looking at the Policy Wording, and this is where it gets a little more complex

For the first three steps we have satisfied ourselves that there is Business Interruption cover in place, that it includes the required extensions, and that it includes diseases

Our job now is to check that COVID 19 is potentially covered within these diseases

For this we are checking to see what diseases are covered, and what are not, so we need to look at the Policy Definitions (noting sometimes this is included within the actual wording of the Extension itself - so check both)

Some policies will include a specific definition for Notifiable Diseases (or similar). Where that is the case this definition needs checking carefully

Specified Diseases

Does the definition include a list of specified diseases? If it does then COVID 19 will almost certainly not be one of them being a recently known phenomenon (if it includes reference to influenza or similar you could try to argue the case with insurers) in which case the current situation would not be covered

Excluded Diseases

Does the definition exclude certain types of disease? If it does, and if COVID 19 could be considered one of those diseases, then there will be no cover for the current situation. For example, the definition might make reference to pandemics not being covered, or any influenza/upper respiratory disease

Where the above is satisfied, or where there is no definition of Notifiable Diseases, we would suggest you have ticked the four core boxes. In our view the policy should respond and you should now consider whether to submit a claim

Should I Make a claim?

Assuming you have come through all four of the above steps and ticked all four boxes, then the policy should technically be triggered and you can look to make a claim, so the question now is should you?

This is a question that will be more difficult to answer for some businesses than others, and a lot of it will come down to how much you can claim versus the negative impacts from claiming, whether just the hassle or possible future premium increases

This is an important question and is impossible to definitively calculate, but below are a few things to consider:

It's all about your premises

The first thing to understand is that Business Interruption cover specifically applies to the premises from where you operate, so any claim amounts will relate to that

It won't pay for the general downturn in the economy from COVID 19, such as where clients pull projects, or there being an absence of new business opportunities. That is just not an insurable risk

It also means that if you could operate remotely effectively, and still deliver for your clients, then there is unlikely to be much you could claim for. This is because any reduction in turnover would not be due to the closure of the premises, but from an absence of business to work on

For example, a photography studio whose revenue relies directly on clients attending sessions at their studio would probably find it worth making a claim, whereas a freelance photographer who already operates from home would probably not

This is why this cover is more relevant to businesses in the hospitality and retail sectors, than the professional or digital services sectors, as the latter can generally work remotely without major direct impact on their income

If you have loss of revenue or profit cover

Theoretically you are looking at how your revenue or profit has dropped from where it should be, however you need to consider how much of that is a direct result of the premises itself as mentioned before

You then need to consider how other factors might affect the amount you can claim

For example, if your turnover was down to 25% of normal before the lockdown, then it is likely that any claim paid would be reduced proportionally to a similar level (as the general downturn from the virus is not what is covered, but the direct impact from the closure)

Note: It is our view that even though the turnover would have dropped down, it would not be at zero, as could be seen from the numbers still visiting public houses until the minute before the lockdown commenced

You will then need to bear in mind that claims may be reduced in consideration of assistance provided by the Government, whether that's from grants, rate reliefs or furloughing employees. With the COVID 19 situation being unprecedented we won't know exactly how those factors will be taken into account until such time as claims get settled

If you have increased costs of working type covers

If your insurance provides you for the additional expenses incurred from the incident, rather than the diminution of income, then what you can claim for will be quite different

This is where there might be some cover for agencies and other professional service firms

This cover would pay for the additional expenses to carry on operating, and thereby keeping the business operational. For the current situation this could be costs to enable the business to work remotely effectively, so could be additional software licenses, purchase of home based printers/stationery or payments to IT contractors

These claims will generally be of a lower amount compared to loss of revenue/profit covers

Note: the additional expenses covers can vary, with some being subject to the expenses being economical, i.e. that the amount of money spent is less than what the impact would have been on the turnover

What about my claims experience?

With any claim it is always important to consider how it will affect your claims experience, and each insurer will act in different ways, and will even vary on whoever the individual is who underwrites your policy

With COVID 19 claims we would suggest that insurers will not be covering these situations in the future, so you would effectively be claiming for a unique event that could not be the subject of a valid claim in the future.

Therefore we believe it is less likely to have a negative impact on future premiums than business interruption from simple thefts or water damage

Summary

If you came through all four steps then we believe you will likely have a valid claim.

If you then could feasibly claim for an amount which would make a difference to your business, then we would suggest submitting a claim to insurers

We cannot guarantee it will succeed as this situation breaks new ground, but in our professional opinion if you tick all four boxes it should be covered

Insurer and Broker Stance

The COVID 19 situation we find ourselves in is unprecedented in our lifetime. It is also unprecedented from an insurance perspective

Where some insurers clearly do not cover these risks, such as those who only cover a list of specified diseases, there are others whose policies clearly appear to respond.

With the situation being unprecedented, some of these insurers are quite concerned about the scope of the losses they could be facing, and how it could affect their future. This has led to some dubious arguments from insurers as to why claims are not covered. Do not be put off from claiming by such responses

The same goes for some brokers and MGA's, who appear to just be accepting the position of the insurer. If you tick all four boxes we've detailed earlier, yet your insurance broker still maintains that the claim isn't covered, don't stop. Submit the claim as you have nothing to lose other than time

The Process

The general claims process will be:

(1) Submit

Submit the claim to insurers outlining clearly that the claim is in relation to the COVID 19

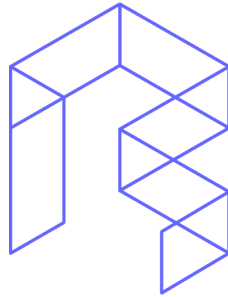
(2) Complain

The claim is likely to be rejected presently, at which point make a formal complaint

(3) Go to the FOS

When the complaint has been repudiated, assuming your turnover is below £6.5m, then take your claim to the Financial Ombudsman Service (FOS). Their decision is binding on insurers, and they are generally more favourable to the weaker party in the contract, which in this case is you (the insured)

Note: If you are to make a claim, do it promptly in writing, as although insurers may eventually not be able to rely on their arguments around the circumstances being excluded, they can comfortably deny liability for late notification. Don't fall into that trap



Choose Riskbox

Choose RiskBox for the peace of mind you need to keep doing what you love. Get in touch with us for more information.

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