

WINTER 2015/2016

COVERNOTES

Kennettinsurance



FLEET TELEMATICS – IS THIS THE SILVER BULLET?

There has been a lot of hype around the use of telematics to manage fleet risks, but is this the silver bullet managers have been looking for?

Utilising telemetry data – whether this is from a traditional installed ‘black box’, (a device that plugs into the vehicle’s diagnostic port) or an app on a smartphone – will give a manager insights into how their employees are driving.

Driver behaviours typically measured are harsh braking and acceleration, cornering and speeding (either a set threshold speed or, more usefully, the speed compared to the enforced speed limit).

So with this wealth of data available, why are more customers not using telematics as a way to reduce their accident and claim rates?

Probably the biggest obstacle preventing the wider adoption of telematics is the need for managers to do something with the data. The data generated gives managers an insight into who is at risk,

based on their behaviours, but not why they are driving like this, so driver debriefs are required to understand the root cause(s). This is often the major barrier to adopting driver behaviour telematics, as either managers haven’t got the necessary experience to conduct the driver debriefs (and/or there is no appetite to train them to do so) or they haven’t got the time, or both!

Without manager engagement, employees are unlikely to modify their driving in the medium to long term. There will be a ‘honeymoon period’ after the equipment is installed, but when employees see that nobody is talking to them about how they are driving, then they are likely to revert and continue driving how they have always done.

Cost is also seen as a barrier, but is this the real reason why organisations may have decided not to use telematics?

Where it is used successfully, modified driving behaviours lead to significant fuel savings, with 5-10% reductions being easily achievable, and this is before

the cost saving implications of any improvement in the accident and claim rates are taken into account. The fuel savings alone will give payback on the investment in months rather than years, and there are many customers already enjoying these.

So it is not the cost of the equipment that is the barrier but, instead, the realisation that to achieve these ongoing savings then managers have to be using the data and talking to their drivers, as this is the only way to ensure telematics will be effective in modifying driver behaviours. This may fall into the ‘too difficult to manage’ category for some employers.

Driver behaviour telematics is not the silver bullet, but where it is used effectively, with ongoing management support and commitment, then it can be one of the most useful tools in the risk management toolbox for businesses.

Source:
Andy Price, Practice Leader – EMEA, Motor Fleet,
Zurich Risk Engineering



BUSINESSES AT RISK OF UNDERINSURANCE

Some businesses may be tempted not to engage with their insurance broker to get proper advice, but rather just opt for the cheapest insurance they can find themselves. As a consequence this could lead to an increased risk of underinsurance.

Underinsurance can result in inadequate claims settlement or no claims settlement at all and can therefore be damaging to any business.

There are several things business insurance buyers should do to ensure they do not fall into this underinsurance trap.

Get regular valuations

Regular professional valuations are the best way to ensure adequate sums are insured.

There are many factors that can affect property valuations, business interruption calculations and the adequacy of indemnity periods.

For example availability of materials, fluctuating labour costs, changes to legislation and changes in the property market all have the potential to significantly change a final reinstatement cost.

The cost of engaging a valuation specialist will be minimal compared to any potential shortfall in claims should a business suffer a major loss.

Consider business interruption

Business interruption is a common problem area for underinsurance.

Some confusion is due to the fact that insurance gross profit is calculated differently from the accountant's version (e.g. the former takes into account fixed

costs). This is a key distinction and can be a source of underinsurance. A fundamental concept of business interruption insurance is the indemnity period. Indemnity periods are often inadequate. Many businesses choose a 12 month maximum, which is frequently insufficient.

When looking at indemnity periods, businesses need to consider:

- what length of time it would take to get a site where the damage has taken place cleared, plans drawn up and architects and contractors appointed? This will be time incurred before any remedial works could even start. Will planning or other permissions need to be agreed?
- would they be able to sub-contract work so their customers are still looked after or would they maybe lose them to a competitor? If so, how long will it take to replace them?
- would there be any delays or extra costs involved in sourcing damaged or lost specialist pieces of plant machinery?
- could any seasonal trade, on which they are dependent, be affected?
- have staff salaries been considered as part of the Gross Profit sum insured? Without maintaining salaries, staff may leave, adding to the problem of incurring additional costs in employing new staff.
- do they have a well thought out contingency plan in place?

According to the Chartered Institute of Loss Adjusters, 37-52% of business interruption policies are underinsured with an average shortfall of 45-63%.

If a business is unsure if their business interruption cover is adequate, their broker can help them with their calculations.

Ensure business continuity planning is in place

Whilst insurance can play an invaluable role for any losses incurred, implementing preloss preventative measures are more important. An effective business continuity plan can make all the difference to the size of a loss and the ability of a business to continue trading and make a full recovery.

Business continuity planning can help a business understand what risks they are facing, how best to combat them, and to check their insurance cover is adequate in the event of a large range of scenarios.

This puts the business in a better position to assess and plan for the probable consequences, thereby hopefully reducing the period over which they will be affected by a loss.

Get it right

There have been many cases where businesses have not been able to recover from a large loss due to the inadequacy of their insurance.

Underinsurance can be a complex issue but by working through the above areas with their broker businesses can make sure that they are effectively covered.

If you want to discuss valuations for your buildings, machinery and plant or business interruption, please contact us.

Source: <http://insider.zurich.co.uk/market-expertise/4-top-tips-to-prevent-underinsurance/> and Webinar Indemnity document



MOTOR INSURANCE CHANGES

Following a landmark European court case the UK government will very soon have to change the rules regarding motor insurance law to bring them in line with this judgement. The current Road Traffic Act (RTA) will have to be amended in Parliament.

The case, *Damijan Vnuk vs Zavarovalnica Triglav*, addressed what risks have to be covered by compulsory motor insurance, the ruling will affect most business' insurance arrangements regardless of the sector they operate in.

This imminent change will affect many business insurance arrangements, as some incidents, currently covered under employers' liability (EL) and public liability (PL) insurance policies, will now be picked up by a motor policy.

It has been eight years since a tractor knocked over the ladder on which Damijan Vnuk was standing while loading hay into the upper floor of a barn in rural Slovenia. He sued the tractor driver for

compensation for his injuries.

As a result of the ensuing litigation, any vehicles that businesses use in off-road settings will now require insurance cover that complies with the RTA. Many of these would previously not have been included in motor insurance policies.

This could mean that vehicles such as tractors, quad bikes, ride-on cleaning equipment, cherry pickers and forklift trucks will now be caught under the umbrella of a motor (fleet) policy.

Businesses have always been deemed liable for their employees' negligent driving, whether on or off the road. However the insurance differences are very important.

Unlike employers' liability or public liability insurance policies, motor policies legally have to provide unlimited cover for personal injury claims.

Motor insurers, and any insurers offering a

policy for RTA risks, have to be members of the Motor Insurers' Bureau (MIB) and pay into the bureau so that the MIB can meet claims caused by uninsured and untraced motorists. This is a cost that employers' liability and public liability insurers don't have. Not all insurers currently covering off-road and special vehicle risks are members of the MIB.

Therefore the cost of insurance for businesses using these kinds of vehicles may well rise in the future.

None of the changes will take effect until the RTA is amended in Parliament, but the changes are likely to come quickly as soon as it comes into effect.

The consultation started earlier this year and following this it is possible that the Act could be altered as early as the first half of 2016.

Sources: BLM
<http://nicholasbevan.blogspot.co.uk/2014/09/road-traffic-act-1988-breaches-eu-law.html>
<http://www.boltburdonkemp.co.uk/news-blogs/accident-claims-blog/vnuk-mib-misapplying-law-20-years/>

WINTER SLIPS AND TRIPS



Unsurprisingly the autumn and winter seasons tend to bring an increased risk of slips and trips. With less daylight, more leaves on pathways and cold winter spells, companies should ensure they take effective action to reduce accidents in the workplace.

Lighting

Is there enough lighting for you and your staff to be able to see and avoid any hazards at work? The easiest way to find out is to ask your staff or to shadow your employees to identify the routes they use. It is important to do this at different times of the day as the effect of light changes.

Fallen leaves

Wet and decaying leaves can create slip risks and can also serve to hide other hazards. Put in place procedures for removing leaves at regular intervals, or remove offending bushes or trees altogether.

Water

Rainwater can cause many hazards when not properly managed.

Many slips happen at building entrances as people entering the building walk in pools of rainwater. Fitting canopies of a good size over building entrances and in the right

position can help to prevent this. If a canopy is not a possibility, consider installing absorbent mats or changing the entrance flooring to one which is non-slip.

Employers should discourage people from taking shortcuts over grass or dirt which are likely to become slippery when wet. Where existing shortcuts exist, consider converting them into proper paths.

On new sites, before laying paths think about how pedestrians are likely to move around the site. Putting the path in the right place from the start may save you money in the long term.

When installing external paved areas ensure that the material chosen will not be slippery when wet.

Ice, frost and snow

Living and working in the UK means that ice, frost and snow can be an unavoidable fact of life.

To reduce the risk of slips you need to assess the risk and put in a system to manage it.

- Identify any areas most likely to be affected by ice.
- Monitor the temperature and take action whenever freezing temperatures are forecast.

- Put procedures in place to prevent icy surfaces from forming or keep pedestrians off the slippery surface. Covered walkways and putting barriers to block off existing slippery surfaces can be helpful.

Gritting can also be essential in some situations and it is relatively cheap, quick to apply and easy to spread.

Rock salt is the most commonly used grit. It can stop ice forming and cause existing ice or snow to melt.

Gritting should be carried out whenever freezing temperatures are forecast. The best times are early in the evening before the frost settles or early in the morning before employees arrive.

It is worth remembering, though, that salt does not work instantly and when it is raining heavily the salt will be washed away.

These risks may seem obvious as the days draw in, but to a busy company these can be easily overlooked. By putting these actions in place you significantly reduce any nasty mishaps the colder seasons may bring.

Source: <http://www.hse.gov.uk/logistics/slips-trips-bad-weather.htm>

AM I LIABLE?

Directors of companies of all sizes can find themselves on the receiving end of the law. Here are a couple of recent construction cases, which illustrate when things can go very wrong.

The Fall

A construction company has been fined £60,000 plus costs after pleading guilty to safety failings after an employee fell through a skylight roof.

The employee fell through the skylight on a London industrial estate, four and half metres onto a concrete floor, and suffered life changing injuries including a fractured back.

The judge described the accident as foreseeable as there was no protection to prevent a fall from or through the roof.

She ruled that the company fell far short of the required standards for managing risks at work, as the supervisor was not trained and there was a complete lack of planning with no risk assessment, or method statement for the work.

Exposed to Asbestos

A builder has been jailed for exposing workers to asbestos whilst working at a commercial unit on a Welsh industrial estate.

Three men were exposed to potentially deadly asbestos fibres while working in the unit, as well as the contractor who was given a 26 week custodial sentence.

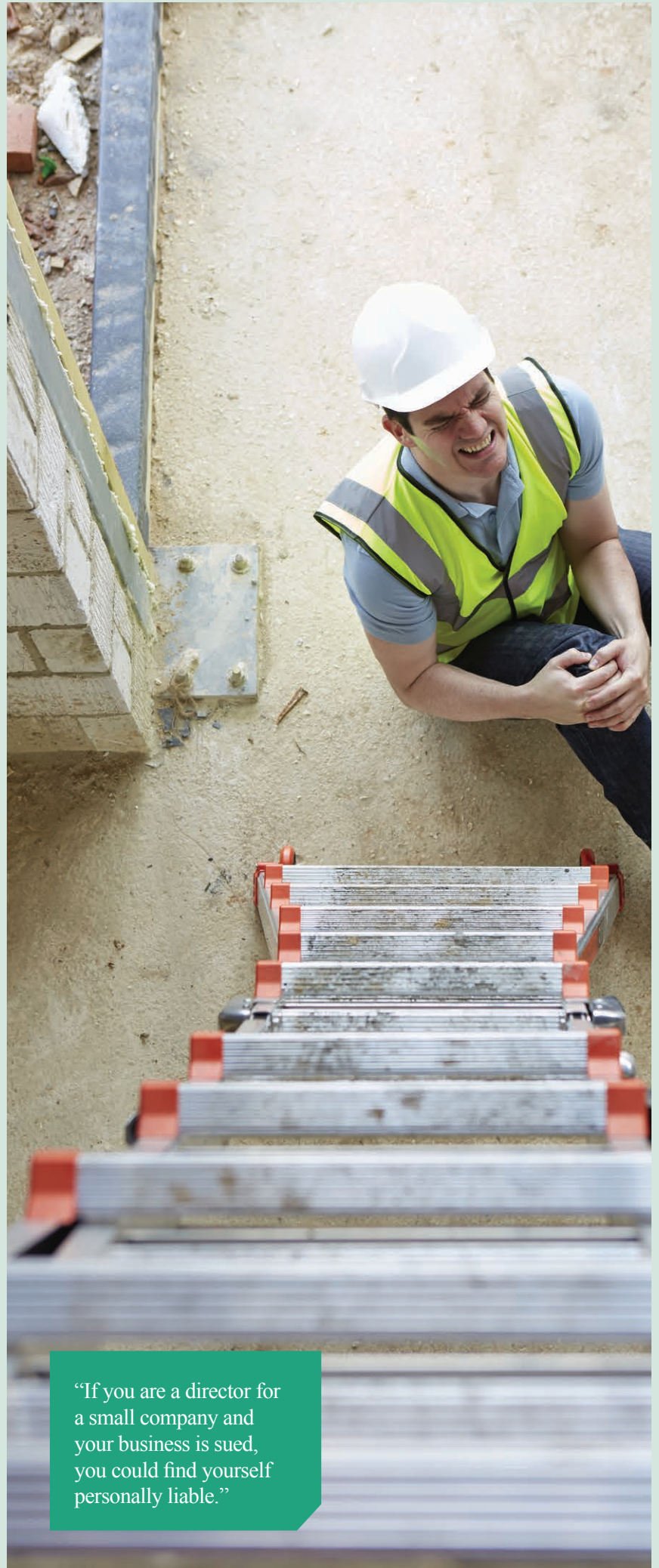
The builder had been employed to remove asbestos from the building prior to sale. A Health and Safety Executive investigation found that he had removed a significant quantity of asbestos from the premises, despite not holding a licence to work with such material.

It is important to remember it is not only the company that is at risk. If you are a director for a small company and your business is sued, you could find yourself personally liable. Claims can come from employees, clients or even fellow directors.

Make sure you and your business are properly protected. A Directors and Officers (D&O) policy can prove to be invaluable in helping to cover defence costs as well as damages.

For more information on D&O insurance, call us today.

Source: QBE Construction Newsletter



“If you are a director for a small company and your business is sued, you could find yourself personally liable.”



STRESS IN THE WORKPLACE

Workplace stress costs UK employers in excess of £3.7bn every year with Britons finding their jobs more stressful than ever before.

Over-stressed workers are also more likely to blame their absence on an illness rather than admit they are unable to cope, which creates the additional problem of making workplace stress even more difficult to assess.

The Management of Health & Safety at Work Regulations (1999) says that employers must assess the nature and scale of health risks at work, including stress, and take measures to control them. Therefore, an employer can be found negligent should an employee bring a claim for stress related illness that a court decides was preventable.

Stress can cause mental and physical illness such as anxiety, depression,

headaches, backaches and difficulty sleeping. Over time, heart disease or stomach ulcers may also develop.

If an employee claims they were dismissed due to suffering from work-related stress, an employment tribunal may treat this as an unfair dismissal unless the employer can claim they acted reasonably.

Typical causes of work-related stress include poor communication, bad management practices, understaffing, excessive hours, job insecurity, bullying and workers' skills not matching those required for their role.

Bullying claims often go hand in hand with stress claims and can lead to substantial damages awarded to employees.

The best way for employers to deal with workplace bullying is to have clear policies and systems in place, which

are well communicated throughout the organisation.

Stress claims are often difficult to defend, expensive to investigate, document heavy and best avoided.

An Employment Practices Liability insurance policy can help businesses protect their directors and staff against accusations of violating employment rights, as well as providing advice and legal support that can protect businesses against stress related issues.

Please contact us for more information on Employment Practices Liability cover.

Sources: <http://www.qbeeurope.com/news/blog/permalink.asp?id=214>
<http://www.hse.gov.uk/stress/furtheradvice/wrs.htm>
<http://www.hse.gov.uk/statistics/causdis/stress/index.htm>
<http://www.hse.gov.uk/stress/>
<http://chubb.com/international/uk/csi/chubb9336.html>

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