

# ADVISER

## EBOLA — INSURANCE AND RISK MANAGEMENT CONSIDERATIONS FOR BUSINESSES

As concerns about the outbreak of Ebola and the potential for a wider spread of the disease increase, Marsh has put together guidance to help you understand and manage the UK insurance position and the risk management implications.

### BUSINESS TRAVEL INSURANCE

Organisations should check the extent of cover provided by their insurer. One major insurer, with whom Marsh places a significant amount of business travel insurance, has confirmed it continues to cover medical expenses and repatriation costs related to Ebola (subject to normal policy terms and conditions and any logistical issues, as outlined below). However, other insurers may take a different stance.



Any persons travelling or working within Ebola affected countries need to be fully aware that in some parts of Guinea, Liberia, and Sierra Leone the medical infrastructure is severely compromised due to efforts to control the Ebola outbreak. As a consequence, there are severe logistical problems with moving any patients due to travel restrictions, closed borders, the reluctance of other countries to accept patients from Ebola territories, and a lack of suitable transportation. Due to the narrowing commercial options for flights and the impact on medical facilities, the [Foreign and Commonwealth Office \(FCO\)](#) is advising against all but essential travel to these countries, except for those people involved in the direct response to the Ebola outbreak. Travellers need to be aware that even if their insurer is willing to provide repatriation to the UK in principle, in practice, evacuation may not be possible and they may have to be treated abroad. This limitation doesn't just apply to Ebola sufferers, but also for any injury or illness that may be suffered.

Costs associated with the cancellation of any booked trip to an Ebola affected territory are unlikely to be refunded by an insurer, as cancellation under these circumstances will be regarded as "disinclination to travel". This is, however, unless the FCO's current stance changes and it advises against all travel to these countries.

## LIABILITY INSURANCE

### Employers liability

There are no specific exclusions or conditions relating to any particular type of disease in compulsory UK employers liability (EL) policies, which provide cover up to GBP5,000,000 per occurrence. Therefore, where the insured is legally liable for disease caused to their employees during the policy period, this should be covered, subject otherwise to the terms of the policy.

For example, most EL policies have an extension of cover for temporary business trips abroad; however, this should be checked to ensure the wording of the extension does not exclude certain types of employees or work. Such restrictions are permitted because the requirements for compulsory cover do not apply outside Great Britain, Northern Ireland, the Channel Islands, or the Isle of Man. Also, and because the compulsory limit applies only to claims worth up to GBP5,000,000 per occurrence, many policies can exclude disease resulting from asbestos (or any other specified circumstances, such as terrorism) above this amount – even where the policy limit is otherwise GBP10,000,000 or higher.

### Public and products liability

There are currently no specific exclusions or conditions in UK public and products liability (PPL) policies relating to Ebola, so where the insured is legally liable for the disease caused to third parties from their business activities and where happening during the policy period, this should be covered, subject otherwise to the terms and conditions of the policy.

This is likely to include, for example, a condition requiring the insured to take “reasonable precautions” to prevent claims under the policy. What are deemed “reasonable precautions” will depend on the circumstances. For UK multinational policies, which extend to include an element of “excess and/or residual” cover for injury to the insured’s employees based permanently outside the UK, some such extensions will specifically exclude any disease claims. Additionally, all other PPL policy terms will also apply.

### Legal liability

The question of whether a legal liability may exist, which is required in order to trigger coverage under an EL or PPL policy, will also be dependent on the facts of each case – but broadly, will be dependent upon whether the insured is considered to have breached its duty of care (if any) owed to the injured party. Consequently, documented evidence of the insured’s health and safety policies, which address the relevant issues and are implemented in practice, will be important in the defence of any claim. Such documentation could also influence whether insurers respond to provide that defence, which is at their discretion and separate from the indemnity they provide for compensation or damages that may be awarded to a claimant in the event of legal liability being proven.



## BUSINESS INTERRUPTION INSURANCE

Standard business interruption (BI) insurance cover is triggered only after the policyholder has suffered damage to the premises for which property cover is in force. Similarly, any policy extensions relating to denial of access, customers and suppliers, and loss of attraction are only triggered by damage to the premises of surrounding properties, customers, and suppliers. An outbreak of Ebola would not constitute damage to property and therefore the policy would not respond to interruption caused by events such as closures due to the Ebola virus. Some may argue that biological contamination does constitute “damage”, but based on past experience with animal diseases such as foot and mouth, this is unlikely to be accepted by UK insurers.

Limited cover is available under the following BI extensions:

### Notifiable/specified diseases

- Most insurers now specify the diseases insured or excluded; however, if the wording is based on “notifiable human diseases”, it is important to remember that the public health authority’s list of notifiable diseases can vary by jurisdiction and is subject to change. Viral haemorrhagic fever (VHF), of which Ebola is a form, is currently on the list for both Scotland and the rest of the UK.
- Where a list of insured diseases is provided, this may just include viral haemorrhagic fever, or it may specifically name Ebola.
- Cover can apply in respect of an outbreak at the insured’s premises only, or wider cover can be obtained in respect of any occurrence within a certain radius of the premises (for example, five miles or 25 miles) that causes a loss at the insured’s location.
- Some extensions limit cover to where restrictions on the use of the premises have been ordered by a competent local authority.
- An inner monetary limit will usually apply.
- The maximum indemnity period is usually restricted, often to three months.
- Most extensions will exclude the costs incurred in the cleaning, repair, replacement, recall, or checking of property.

### Non-damage denial of access

- The extension is usually titled “Action of Competent Authorities”, or similar, and gives cover for action by the police or other competent local, civil, or military authority following any danger or disturbance in the vicinity of the insured’s premises that prevents or hinders the use of the insured’s premises or access to them.
- Some wordings only include police action.
- An inner monetary limit will usually apply.
- The maximum indemnity period is usually restricted, often to three months.

Cover may also be available under specialist business interruption supply chain policies, where it is not triggered by damage. Acceptance is subject to underwriting criteria and may be limited to supply chains within Europe and the USA.



## RISK MANAGEMENT ACTIONS

- Monitor developments via the websites of the [World Health Organisation \(WHO\)](#), the [Centers for Disease Control and Prevention \(CDC\)](#), your national health authority, and local health authorities.
- Review your company's business travel approval procedures to ensure there is an escalation process to review any proposal to send an employee(s) to West Africa or any other affected territory. Unless it is business-critical, follow FCO advice and avoid travel to Sierra Leone, Guinea, or Liberia.
- If you do decide to send employees to an Ebola affected territory, educate yourself and them about Ebola's transmission and infection-control measures and ensure you record this in detail and in writing. Such advice should include:
  - If you are in an affected area, avoid high-risk activities such as contact with ill people or the bodies of people who have died from Ebola, with sick or dead wildlife, or with bush meat.
  - Pay strict attention to hygiene. Frequently wash your hands or use hand sanitiser, refrain from touching your face, and avoid close contact with an obviously sick person.
  - Monitor your health and seek medical attention if you feel sick (for example, fever, headache, achiness, sore throat, diarrhoea, vomiting, stomach pain, rash, or red eyes).
  - Always carry the emergency medical assistance number provided by your business travel insurer.
- Review your business continuity plans and the corporate structure to ensure they will respond if the situation worsens and a pandemic event occurs that affects key individuals or groups of individuals in your organisation.
- Review your supply chain and customer profiles to establish if you have any critical dependencies on suppliers or customers in an affected territory. If such a dependency is identified, consider what enhanced risk controls you should put in place to protect your position.

The information provided in this document is general guidance. Please contact your usual Marsh representative to discuss your specific insurance policy wordings and cover, or email [national.enquiries@marsh.com](mailto:national.enquiries@marsh.com)



The information contained herein is based on sources we believe reliable and should be understood to be general risk management and insurance information only. The information is not intended to be taken as advice with respect to any individual situation and cannot be relied upon as such.

Marsh Ltd is authorised and regulated by the Financial Conduct Authority.

Copyright © 2014 Marsh Ltd All rights reserved.

Ref: 80257D7100506205\_ Exp March 2016