



Recommendations for Potential Additional Coverages



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Introduction

Each of our clients will have their own perception of risk – what amount they are looking to transfer to an insurer or what risks they are willing to take without the comfort of insurance. Some are looking for the lowest price and are happy to accept a policy with limited coverage and more exclusions. Others are steered by us for best value, while the more risk adverse will seek the broadest possible insurance cover.

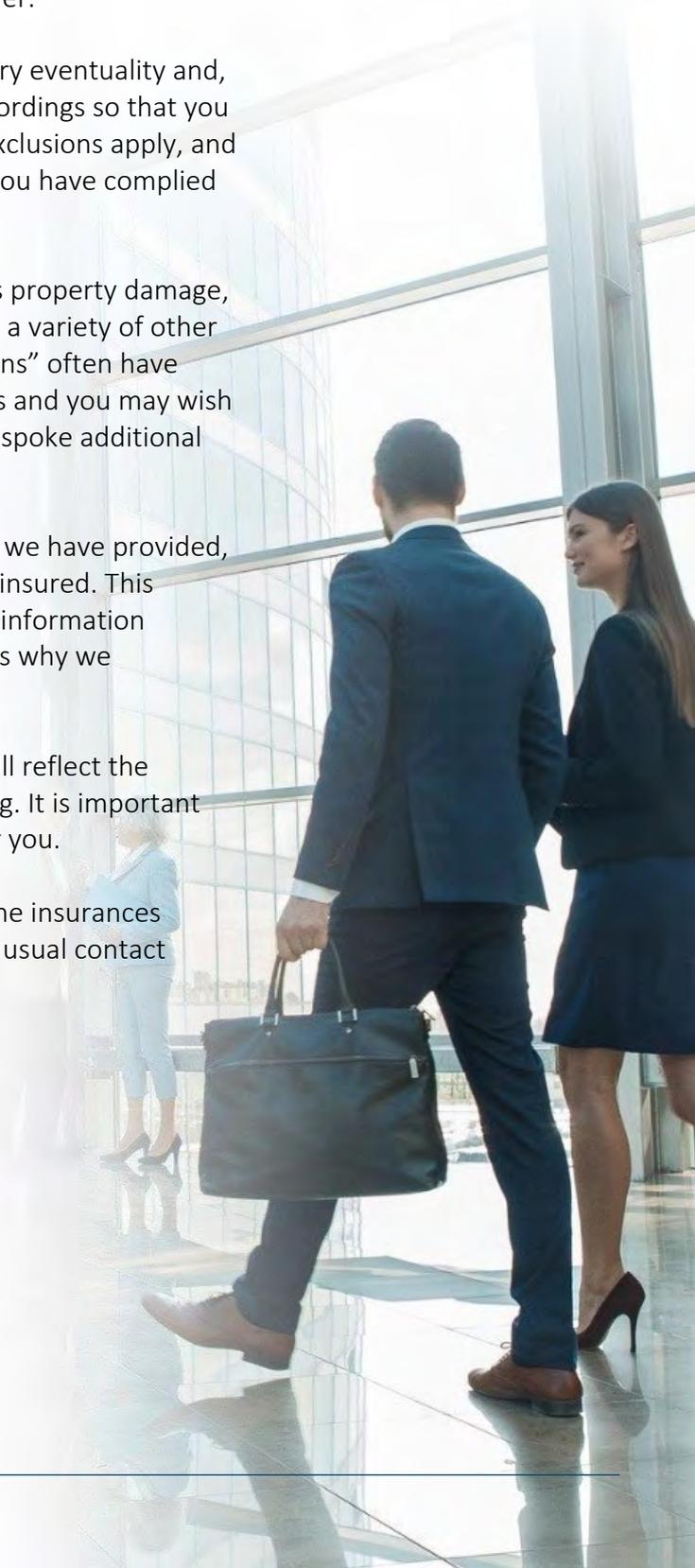
It is important to realise not all policies will cover every eventuality and, as such, we ask that you look closely at your policy wordings so that you are familiar with exactly what they will cover, what exclusions apply, and what you are required to do in order to ensure that you have complied with your policy terms and conditions.

Package policies, which usually cover your company's property damage, business interruption and liabilities, may also provide a variety of other covers at a competitive price. However, these "add-ons" often have more limitations than specialist "stand alone" policies and you may wish to consider taking out separate policies to provide bespoke additional coverage.

In the "statement of demands and needs" document we have provided, we may have highlighted key areas where you are uninsured. This document is designed to provide you with additional information concerning the types of policies available and explains why we recommend that you could consider such cover.

These policies may not be cheap, as the premiums will reflect the number and severity of claims that insurers are seeing. It is important that you consider whether these policies are right for you.

If you are interested in obtaining a quote for any of the insurances described in this document, please reach out to your usual contact at Brunel for specialist guidance.



Management Liability Insurance

A Management Liability policy encompasses a variety of different coverages to protect a company and/or its individual employees against potential claims.

Insurance can be taken out to cover your chosen combination of the following eventualities:

- Directors & Officers Liability
- Corporate Legal Liability
- Employment Practices Liability
- Crime

These covers may also be obtained as standalone products, and are discussed in more detail in the following pages.

Because claims in these areas are becoming more frequent and more expensive, premiums for such policies have risen substantially and this trend looks set to continue. Furthermore, insurers have substantially increased the size of policy deductibles for the same reason. Notwithstanding these costs, you must give serious consideration to taking out these covers as the cost of defending such claims could be potentially ruinous.

Directors & Officers Liability (D&O) Insurance

Increasingly claims are being made directly against senior personnel within organisations alleging that they personally have acted in a way that they should not have done or have failed to act in a way in which they should have done.

If such claims are made against the organisation itself, it is likely that these claims will be covered by that organisation's appropriate insurance policy (such as Employer's Liability, Public and Products Liability or Professional Indemnity policy). However, if a claim is brought against an individual in their personal capacity, these types of policy are unlikely to respond. As such, personal assets of that individual would be at risk.

A D&O policy could protect the individual directors and senior personnel of a company from such claims and prevent the potential consequent loss of their personal assets.

Corporate Legal Liability

Whilst the exact cover provided will vary from policy to policy, this type of insurance can protect your company against a number of specified events such as:

- The cost of defending a Corporate Manslaughter prosecution and/or the costs incurred in assisting your company during a Corporate Manslaughter Investigation.
- The cost of defending a Health & Safety prosecution and/or assisting your company during a Health & Safety investigation.
- Public Relations expenses incurred in relation to a Corporate Manslaughter or Health & Safety prosecution.
- The cost of defending certain other civil or criminal proceedings against the company.

There are a number of exclusions – for example a Corporate Legal Liability policy will not cover bodily injury claims as such costs are more correctly covered under other types of policy such as Employers' Liability, Public and Products Liability or Motor policies.

Employment Practices Liability (EPL) Insurance

The number of EPL claims brought in the UK has increased dramatically since 2017. This change was largely due to the removal of tribunal fees – meaning that a claimant alleging such matters as unfair or wrongful dismissal or discrimination no longer had to pay a sizeable upfront tribunal fee.

The cost of defending such actions can be substantial, running into tens of thousands of pounds even where it is clear from the outset that the claim is without substance. Such defence costs are not recoverable, even in the event that the tribunal finds in the defendant's favour.

An EPL insurance policy may cover the costs of defending such actions and may also cover any damages awarded (but not any amounts which would be payable contractually or under statute such as redundancy payments or holiday pay).

Fidelity Insurance (Fidelity Guarantee Insurance)

Many property damage policies will specifically exclude theft by somebody who is in your employ or, if they do provide such cover, may only cover thefts discovered within a couple of weeks of the theft taking place.

Sometimes an employee may have taken money over a long period of time, possibly just a few pounds at a time, but over a long period of time these losses can add up.

To get around this problem, some policies may include a “Fidelity” extension (possibly at additional cost). This may cover you for theft by an employee but may have a number of limitations. For example:

- Cover will usually be limited to a relatively low amount – often a small fraction of the overall sum insured
- Cover may only be in force for losses that have occurred since you first took out Fidelity insurance
- Some policies may not meet losses that are discovered after the policies have been cancelled even if the thefts took place whilst you were on cover
- If the losses have been taking place over a long period of time, and even where you have been insured by the same insurer throughout, some policies will only cover you for losses within a particular time period (for example the last twelve months)
- The policy will stipulate that you must have systems in place to reduce the risk of a loss. If you have not met any requirements that your insurer lays down, any claim is likely to be rejected. Common examples of insurers’ requirements include the need for two different signatories to authorise any payment and a stipulation that there are annual audits undertaken by an external accountant. Every policy will contain different requirements and it is important that you meet those of your insurer if you decide to take out this coverage.

Crime Insurance

Crime policies provide similar cover to Fidelity Insurance but will often provide for larger sums insured and can extend to cover losses due to a variety of other crimes committed not just by employees but also by third parties such as fraudsters.

What are the key differences between typical Fidelity and Crime policies?

Every Crime and Fidelity policy is different however the following table gives an indication of some of the key differences that are often found between the two types of policy.

Fidelity Guarantee Insurance	Crime Insurance
Usually only covers Theft by Employee	Covers Theft by Employee but also can cover several other types of loss (albeit potentially with lower limits of indemnity)
Often has a <u>fairly low</u> sum insured (perhaps between £10,000 and £50,000)	Will tend to have higher sums insured (possibly £250,000 +)
Will often cover only theft of your company's own money and not client funds that you are holding in trust	Generally, will cover client funds held in trust also
Does not usually cover Mandate Fraud – for example where you receive an email purporting to be from a supplier advising that their bank details have changed, and money is transferred into a fraudsters account	Will probably cover Mandate Fraud
Does not usually cover Fake President Fraud/Fake CEO Fraud – for example where an employee of yours receives an email purporting to be from you or a senior person in your company and is duped into transferring funds to a fraudsters account	Will probably cover Fake President Fraud/Fake CEO Fraud
Does not usually cover damage to Money, Securities and Premises (although some combined policies may have limited cover under other sections)	May cover damage to Money, Securities and Premises (where the premises are damaged to gain access to Money and Securities)
Does not usually cover losses due to Identity Fraud	May cover losses due to Identity Fraud
Does not usually cover the cost of rectifying Data Damage – where your data is criminally or maliciously corrupted, deleted or altered	May cover Data Damage Expenses

As with Fidelity policies, you will have to ensure that you have certain procedures in place in order for a Crime policy to respond. For example, if you receive an email purporting to be from a customer or supplier advising that they have changed their bank account and attaching new bank account details you may be required to telephone your usual contact at that supplier/customer in order to verify that the details did indeed come from that entity and not from a fraudster.

Cyber Insurance

A Cyber policy provides protection against a variety of cybercrimes such as fraud, data theft or loss and social engineering.

These policies are important because the cost of defending a third party claim can be very expensive – for example, if a claim is brought against you by an individual who is alleging a breach of privacy laws, even if that claim is entirely without merit and no damages are awarded, it could easily cost you £10,000 in defence costs.

A report issued by Allianz in October 2020 highlighted that the number of Cyber claims had increased by 67% in the space of five years whilst the average cost of each of those claims had increased by 72%. Whilst 54% of these claims were due to accidental internal causes such as human error, those claims amounted to just 6% of the value of the claims. Whilst malicious claims (whether from internal personnel or those arising externally) made up only 46% of claims, they amounted to 94% of the value of such losses.

In 2020 alone, the number of malware and ransomware incidents has increased by over a third whilst phishing, scams and fraud have all increased by over 50%.

There are a number of key areas where a Cyber policy can assist, but every policy is different in the breadth of the benefits that it can offer. Below are examples of the types of cover that may be obtained:

Breach response

This cover could meet a number of costs incurred if a hacker gains access to your systems, for example some policies will cover:

- The cost of hiring forensic I.T. professionals to establish what information has been compromised and the extent of damage caused to your systems.
- The cost of appointing specialist solicitors who will:
 - Guide you through what needs to be done to notify people whose personal data may have been compromised
 - Advise the process of notifying the Information Commissioner's Office
 - Advise what needs to be done to advise any industry specific regulators
- The cost of hiring Public Relations experts to help repair reputational damage caused in the event of a serious breach.

Own Financial Losses Suffered

Cyber policies may include coverage to meet losses you have suffered as a result of system failures or security breaches, for example:

- Losses suffered as a result of Interruption to your business
- The costs of dealing with an extortion demand
- The cost of recovering data following a security breach

Liability to Third Parties

A Cyber policy may meet damages and costs that you are legally obliged to pay to defend a third-party claim as a result of such matters as:

- A data or security breach
- Failure to make timely disclosure of a data breach or security breach
- Penalties and Expenses incurred in defending regulatory breaches in relation to data or security breaches

Crime

Some policies extend to provide cover for certain types of crime loss such as Fake President losses (please refer to the “Crime Policy” for further details) or Telephone Fraud, where a fraudster gains access to your telephone system and uses it in an unauthorised manner.

Loss Recovery Insurance

The settlement of insurance claims resulting from significant damage to company property and assets can be a complex and prolonged process. It is important to avoid disruption to business as far as possible and secure the best possible settlement from insurers.

Loss Recovery Insurance can pay the cost of appointing an independent Loss Adjustor to act on your behalf, provide you with guidance and negotiate a fair value for the property damage and consequential losses suffered. Cover is usually triggered when the insurance claim (within the terms and conditions of the property policy) exceeds a certain amount, typically £5,000.00

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