

Pollution:

...it could be your problem

Environmental pollution is a hot issue and most businesses have to take great care in not polluting the neighbourhood or the atmosphere. Seepage of oil from tanks, the growing practice of building on brownfield sites, polluting rivers and streams from escape of effluent, and disposal of waste, are all issues that businesses have to face with growing vigilance, but the insurance position is not straightforward.

Pollution can:

- be sudden and unforeseen resulting from an identifiable event or accident
- be gradual and happen over a period of time
- affect neighbouring property.
- affect a business's own land
- already exist in property or buildings purchased.
- be active i.e. causing damage now.
- be passive but likely to result in damage later.

Liability under the law has been extended so that someone has to pay not only for any damage caused by pollution but also the clean-up costs for active or passive pollution. This may be irrespective of who is to blame. The polluter must pay and current owners of property may well find that they have a liability for pre-existing contamination even though they did not cause it.

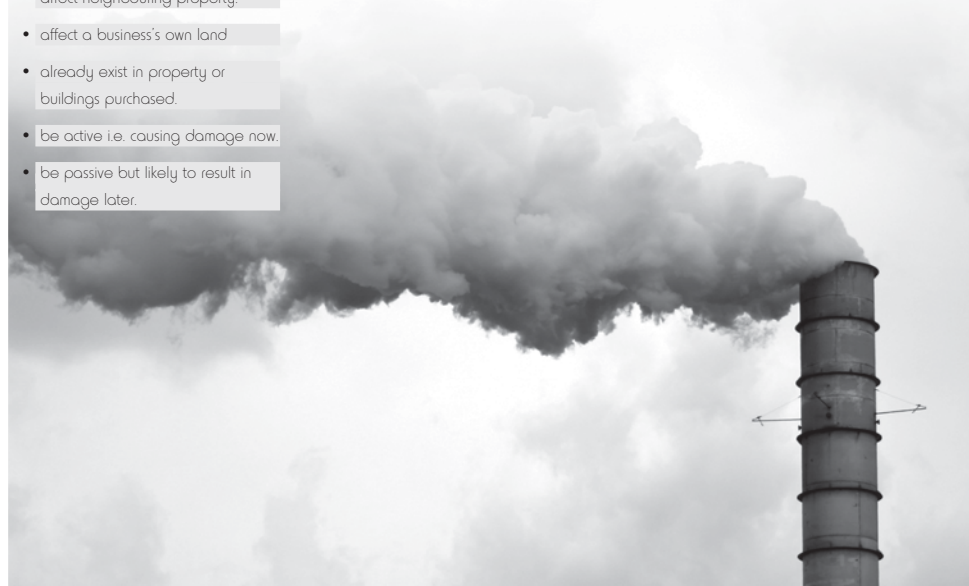
Land that is contaminated, or businesses with a risk of liability for pollution, are difficult to sell and there is the spectre of more draconian legislation in 2007 as a result of a EU directive.

A public liability policy is likely to cover a business against sudden and unforeseen pollution traced to a specific event

caused by negligence. It will also probably cover liability for cleaning up the pollution on third party land. It does not cover gradual pollution such as seepage, nor does it cover clean-up costs on business's own property.

To provide full protection, a special cover called environmental impairment liability cover is required. This is only available from a few insurers and normally requires an in-depth survey of the inherent risks and how these are managed. Any property owner or business needs to consider if this wider cover is appropriate for them.

We are happy to provide any advice if required.



insight

Issue 3



Unusual Suspects?

In April, Joyti De-Laurey, a personal assistant at an investment bank, was convicted of stealing an astonishing £4.3m from her bosses. Whilst this loss was staggering, it highlighted a growing problem of commercial fraud and theft by employees.

Insurance cover known as Fidelity Guarantee or Commercial Fraud has been available for many years, but businesses have been reluctant to take out cover as it seemed to demonstrate a distrust in its staff. However, it should be considered, as many businesses have been forced to go into administration following fraud by an employee.

Specific fraud risks are:

- Fraudulent diversion of funds
- Fraudulently creating and approving purchases
- Falsifying either individually or in collusion with others the financial accounts to enable the payment of salaries etc
- Helping external parties falsify the provision of goods and services
- Theft of stock by employees or in collusion with a third party
- Theft of your own or client funds
- Stealing or forging company cheques

Recently commissioned research showed directors or senior managers committed almost two-thirds of the fraud cases surveyed. A third of all fraud was committed by long-standing employees of between 10 and 25 years service. One half was done in collusion with others and men are overwhelmingly more likely to commit fraud than women. Youngsters under 25 make up a very small proportion of perpetrators.

There are certain indicators of fraud such as:

- Certain customers or suppliers dealt with exclusively by one employee
- Personal lifestyle not matching income
- Refusal to take holiday entitlement
- Mundane tasks retained rather than delegated

The cost of cover is low and readily available for most businesses. Employee fraud happens in the best run businesses and it seems sensible to protect yourself against a risk that can cause your business to fail. We would be happy to obtain a quotation for you.

inside



Does your business have a backup plan?



Can you carry the cost of product recall?



Young men likely to be at more risk



New pollution law has far-reaching consequences

DON'T LEAVE YOUR BUSINESS TO CHANCE

A single serious incident may be enough to close down a business - even when it's properly insured.

Often the prospect of relaunching the company - the red tape, the hassle, the energy required - is simply too daunting.

But there is no need for any setbacks to sink your business as long as the management has a detailed contingency plan. Indeed every well-run firm should have such a strategy, usually known as a Disaster Plan or a Business Continuity Plan.

First, ask yourselves the following questions:

1. Do we have a planned response to a major incident?
2. Do we have the resources to support the plan?
3. Have we tested our plan?
4. Is our plan regularly reviewed?
5. Are our co-partners and directors aware of the plan?
6. Do we distribute copies to staff?

If the answer to any of the above questions is 'no' read on.

Risk identification

The first step is to identify the threats to your business. Fires, explosions, storms, and perhaps floods will obviously feature on the list. So too will a disruption to the power supply, the breakdown of key plant or a major incident in the area. Less obvious risks include the death of a vital member of staff, the failure of a major customer or supplier, a press scandal that concerns your product, or the sudden emergence of a new competitor. All these should be brainstormed and listed by the management team.

Business impact analysis

Having identified the risks, the next step must be to assess their effect on the business. This should be measured in terms of finance, customer service and reputation. In some cases, the consequences may be short-lived; in others they may be long-lasting or even terminal. By categorising the risks you will be able to determine what is important to the survival and prosperity of your business.

Creating your plan

The key issues arising from the first two steps must each be addressed in the plan. It should have the following objectives:

- To contain and minimise disruption
- To maintain critical business functions
- To handle your reputation and the media
- To return to business as usual as soon as possible

The elements of the plan are below. These should be tested, updated once a year and a senior person made accountable for it. A copy should be distributed to all staff with one kept off-site.

Does your business have a backup plan?

- The provision of a structured incident and crisis management team that will respond to the situation
- Contact details to enable the team to be brought together quickly
- The team structure should identify roles and responsibilities
- A procedure to invoke the plan
- A nominated central centre or meeting point
- A schedule of actions needed to commence recovery of the business
- Arrangements for restoring communications
- Emergency contact numbers so staff can obtain information
- A procedure for dealing with the media
- A staff cascade list
- Floor plans stored off-site identifying the location of critical items
- Details of any off-site records containing backup data and critical records
- Emergency home numbers of key business contacts including your insurance broker
- Office equipment and the replacement of key plant
- Alternative suppliers
- External agencies that can support you

DANGER



...men at work

According to The Labour Force Survey (LFS), young persons, particularly men, are more likely to suffer workplace injury than older ones. Compared with the 45 - 54 age group young men aged 16 - 24 face a 40% higher relative risk. For women however there is no substantial variation in the risk of injury between age groups. There is legislation covering young persons under 18 at work, but it is up to employers to set up their own special programmes for those over 18. All employers need to take special care with the young and this especially applies to businesses with a proportion of these in their workforce. These businesses are likely to have to pay more for employers liability insurance and at certain times may have difficulty in obtaining insurance at all, unless they can demonstrate that they have procedures in place to manage the extra risks they face.

Young people are often seen to be stronger and therefore more capable of carrying out the heavier and more awkward tasks. This in reality is far from the truth.

They may:

- be physically and psychologically immature
- lack awareness of the risks involved in tasks they may be asked to do
- be ignorant of risks associated with plant, equipment and substances
- be eager to impress and please
- have a tendency to high spirits.

It is important to have an induction programme and ensure this is carried out and understood. The appointment of a mentor is desirable, someone who is experienced and is ready to give advice. A special risk assessment for young workers should be carried out, together with a readily available young persons health and safety checklist.

A very useful web site for reference is run by ROSPA at www.young-worker.co.uk

Product Recall

the cost of taking it back



The Sudan 1 crisis has faded from media spotlight but its impact has been far reaching. In this case, chilli powder imported from India contained Sudan 1, a banned substance, and entered the UK food chain. 100s of products had to be recalled and replaced at great cost. This has now been done but the question remains as to who will pay the final bill. There is a long chain from the original supplier in India to the retailer who sold the product and this is bound to be broken by some unscrupulous supplier disappearing or an involved business going bankrupt.

In legal terms, the business importing the powder into the UK is responsible but in reality, such is the cost, it is likely to fall on those who have the financial muscle to pay and/or have specific product recall insurance. Many weaker suppliers in the chain may well be forced out of business by legal action or being unable to recover their costs.

Product recall has been, for sometime, very common in the automotive industry but has now extended to all consumer and food products. As soon as a product has been established as being defective, the decision has to be made re recall and replacement. Product liability policies will not provide cover for defective goods left in circulation unless reasonable attempts are made to recall them and soon there will be legislation making it a criminal offence to market a product, which is not safe. Recalls are bound to rise and impact retailers, importers, distributors, sub contractors and manufacturers.

Most product liability policies do not cover the costs of recall and many businesses that supply a defective product or ingredient to the mass market directly or indirectly could go out of business.

Excellent quality control is of course essential but for peace of mind it is worth considering special insurance covering the cost of product recall.