



Risk Management Lessons for Brokers from COVID-19 E&Os

Richard Webb – Director

Ben Hardiman – Mills & Reeve LLP

Liam Burnett – Mills & Reeve LLP



MILLS & REEVE
Achieve more. Together.



Learning Summary

- Issues from current COVID-19 claims
- Ongoing COVID-19 legal disputes
- Have you considered the advice you now give and your procedures following COVID-19?

Agenda

- Issues from COVID-19 Claims
- Ongoing legal disputes and challenges facing brokers
- Risk Management – the advice you give

Issues from COVID-19 Claims

- Common causes of claims
- Understanding the cover you are advising on
 - Business Interruptions
- FOS – just complaining
- Do brokers buy COVID-19 cover or not?
- To notify or not notify
- Financial
 - Increased Premiums & Excess –v- No cover & claims

Ongoing Covid-19 Legal Disputes

- FCA Test Case - Supreme Court decision - January 2021
- Issues not addressed
 - SC did not consider certain potentially contentious aspects of High Court decision which neither FCA nor insurers appealed
 - “At the premises”
 - Loss of rent (similar concept and wording to BI but different type of loss)
 - Aggregation
 - Single or multiple losses / events / occurrences / causes?
 - Impact on low sub-limits
 - Quantum (government support, losses after the policy period, increased operating costs)
 - Damages for late payment of claims – Enterprise Act 2016 via Section 13A Insurance Act 2015

Ongoing Covid-19 Legal Disputes

Specialist court list for BI claims – 7 claims, all insurer focussed (so far)

- Parkdean Resorts v Axis – recently settled
- Stonegate Pub Company v MS Amlin, Liberty & Zurich (largest pub company in the UK incl. Slug & Lettuce) – trial in June 2022
- Greggs v Zurich Insurance plc and Various Eateries v Allianz – both have trials of preliminary issues later July 2022
- Smart Medical Clinics Ltd v Chubb European Group
- World Challenge Expeditions v Zurich – travel cancellation policies. Trial 2023
- CG Restaurants & Bars (Dirty Martini) v RSA & QIC Europe – issued?

Ongoing Covid-19 Legal Disputes

FCA Claims Data (to Feb 2022)

- 42,307 claims accepted
- Total value interim / final payments = £1,314,786,150 (billion!)

Financial Ombudsman Service

- 2020 – 3,500 Covid-19 complaints
 - This is only 8% of all insurance complaints
 - 43% relates to travel, events cancellation and BI (the balance is banking/lending)
 - Understand only 135 complaints about brokers
- March 2020 – February 2021 – 2,700 complaints about business interruption insurance
- 240% in complaints about travel and special events insurance

Ongoing Covid-19 Legal Disputes

- Corbin & King v AXA Insurance (the Woseley)

“the actions taken by police or any other statutory body in response to a danger or disturbance at your premises or within a 1 mile radius of your premises.”

- Loss
 - Number of events
 - Number of entities

Risk Management – the advice you give

- More important than ever?
- Back to basics:
 - Identify the type and scope of cover that is needed
 - Ask open questions
 - Remember that you're a broker:
 - Flag the risks – it's the client's decision
 - You're not expected to be an expert on everything
- Stick to the process (if it works) review, repeat
- Evidence, Evidence & Evidence again

MUM

1. BIBA Brokers Own E&O
2. PI products that offer broad cover
3. Strong capacity
4. Experienced underwriters & claims adjusters
5. Covid-19 Helpline
6. Claims Prevention Helpline

Mills & Reeve LLP

- Top 40 UK law firm
 - 135 partners, more than 1,200 staff and over 550 lawyers
 - Offices in Birmingham, Cambridge, Leeds, London, Manchester and Norwich
 - Listed as “*Top Tier*” in 36 of our practice areas by *Chambers & Partners*
 - UK Law Firm of the Year at the British Legal Awards 2018/19
 - Firm of the Year – Roll on Friday 2018, 2019 and 2020
 - 19 years running as one of the UK 100 Best Companies to Work For
- “Mills & Reeve is the model of a modern major law firm, dedicated to new thinking and expansion”*

Learning Summary

- Issues from current COVID-19 claims
- Ongoing COVID-19 legal disputes
- Have you considered the advice you now give and your procedures following COVID-19?



SEE US ON
STAND **B48**



THE
BIBA
CONFERENCE
2022

Our Insurance
Community

MANCHESTER CENTRAL

11-12 MAY

BRITISH INSURANCE
BROKERS' ASSOCIATION