What could Brexit mean for UK employers?

Businesses must prepare themselves for the potential challenges they might face.

06 Data analytics
Companies need to use data and analytics, to better understand the risks in their organisations.

12 Brand reputation
Reputations can be damaged quickly and more extensively. Are you prepared for the risks?

14 Changing technology
Technology is transforming the workplace. Understanding how these advances affect risk is essential.
JLT has launched a cyber insurance facility offering UK Small medium enterprises (SMEs) broad cyber cover backed by four of London’s leading cyber insurers. Coverage includes first-party incident response, credit monitoring, data restoration and business interruption costs, as well as cover for third-party privacy and security liabilities and fines and penalties (where insurable by law).

Policyholders will have access to a seamless incident response management solution, provided by a panel of leading lawyers, forensic accountants and PR consultants. According to Sarah Stephens, Head of Cyber, Content and New Technology Risks at JLT Specialty, many small businesses are needlessly putting themselves at risk by not being insured.

“Management should take cyber risk as seriously as other risks. Falling victim to a cyber attack is now inevitable, and cyber insurance is a necessary last line of defence,” she says.

For further information, please email cyber@jltgroup.com

JLT Specialty is partnering with Alzheimer’s Society to raise £50,000 to help combat dementia. Dementia is the leading cause of death in women in the UK and the third-leading cause for men, yet nearly half of people with dementia go undiagnosed. Worldwide there are 7.7 million new cases diagnosed every year. By 2030 there is expected to be over 75.6 million sufferers worldwide.

Alzheimer’s Society aims to develop awareness and understanding of dementia, improve the quality of life for those with the condition and fund research into improved treatments. While some treatments can help people live with their symptoms, there are currently none that slow or stop diseases such as Alzheimer’s.

“One in six people over 80 in the UK have dementia but it can begin as young as 30, so we are proud to assist Alzheimer’s Society with their vital work,” says JLT Specialty Chairman Adrian Girling. “We look forward to supporting their initiatives through fundraising and volunteering over the course of 2017.”

JLT launches campaign to tackle dementia

Welcome to the Spring edition of whiteboard.

As this edition arrives to your desk, there is no doubt that the news will be dominated by two key issues for the UK being the general election and the exit from the EU.

A debate that has been underway for many months will continue, with views and opinions widespread and diverse. One of the central themes stemming from the debate is the issue around migration and the availability of European labour in the UK. In this edition we explore some views on what may transpire and how this will impact the economy and businesses operating in the UK.

We are also taking the opportunity to reach out to you, our readership, and ask some questions about what you would like to see us writing about in the future.

There is a brief survey included with this edition. Please will you take the time to share your views with us; we greatly value them. We will be putting all the responses into a draw to win a Google Home Device. So thanks for your comments and best of luck!

Stuart Winter
CEO of UK Retail,
JLT Specialty
JLT has been voted Lloyd’s Broker of the Year in Reactions’ 2017 Lloyd’s Broker Survey. Reactions is one of the insurance industry’s leading reinsurance magazines, and the award was made as a result of interviews carried out with more than 100 senior Lloyd’s underwriters.

JLT featured in the top five in all six of the survey’s insurance broker categories, including second place for contract certainty within the Lloyd’s market.

JLT Re also ranked in the top five in every reinsurance broker category, with three top-three rankings.

“JLT evidently has a very strong offering in the Lloyd’s market,” says JLT CEO Dominic Burke.

He puts JLT’s success down to building the right corporate culture, investing in people and recruiting technical expertise to ensure JLT puts the right skill sets in front of clients.

“We aspire to be the world’s leading specialty insurance broker, defined by respect, capability and deep-seated technical skills,” says Burke.

JLT is investing heavily in expanding its footprint in the US, where it now employs 220 staff across a range of specialty lines.

“The ambition in the US has been to become a significant specialty player on an international platform,” Burke explains. “We’re starting to see real momentum.”

UK insurers see opportunities for future growth but optimism is tempered by ongoing margin pressure, according to the latest CBI/PwC Financial Services Survey. Changes to the premium discount rate on personal injury claims (the ‘Ogden Rate’) turned UK general insurers bearish in the first quarter of 2017, with many predicting rising claim costs.

Life insurers remained relatively bullish, with respondents expecting business volumes to increase and profitability to remain positive. Nevertheless, they remain cautious, with operating costs rising and uncertainty about demand and business prospects likely to limit capital expenditure in the coming year. The survey found, however, that both general and life insurers plan to invest heavily in IT, including blockchain and emerging technology, as they strive to improve efficiency and competitiveness. They also expect costs to reduce, suggesting a continued move towards automation to streamline processes and cut costs, PwC said.

Affecting new policies written after 4 May, the Enterprise Act gives insurers the right to claim damages when insurers fail to settle claims within a ‘reasonable time’. Until now, if a company suffered a loss because of a delayed claim payment, it would have had no remedy.

Under the new rules, which assess each claim on its own merits, insurers will still have time to investigate and assess claims for suspected fraud or coverage issues, and have recourse to seek a contribution from service providers if they have contributed to the delay.

“The legislation should lead to improved claims handling from insurers, in both accuracy and speed,” says Sophie Robson, Legal and Technical Advocate for JLT Specialty.

However, she warned that the legislation is not intended to be punitive, advising insureds to take steps to mitigate any loss themselves to protect their businesses.

JLT named best Lloyd’s insurance broker

Ogden rate change dents insurer optimism

Law change stamps out late claim payments

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Inflation clauses, heavy penalties for health and safety breaches and business interruption.

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Companies are harnessing data and analytics to better understand their risks.

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There are many ways to rebuild a business after a fire or flood, but there are also considerations.

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Reputations can be damaged quickly. Companies must manage the risks in case they’re affected.

14 Changing technology
Technology is transforming the workplace. Understanding how these advances affect risk is essential.
When it comes to a major claim, underinsurance and high levels of inflation can leave an insured out of pocket. Accurate valuations are key, but the choice of policy wordings can also affect recoverability.

Many property damage policies today contain a so-called ‘day one’ clause, which applies a percentage-based uplift to the declared value to allow for inflation during the period of reinstatement. These were first developed in the 1970s to protect insureds against the damaging effects of high inflation – which peaked at over 25 per cent in 1975/6.

Today, inflation is running at more than 2 per cent, but contracts are still sometimes written on a day one basis with a 25 per cent or 30 per cent uplift.

This is because some believe that day one clauses give better protection against underinsurance. However, this is not supported by the facts.

**The pros and cons**

Looking at the pros and cons of day one clauses, an insured might be marginally better off in a total loss scenario as they still enjoy the benefit of inflation in reinstatement costs at the prevailing rate at the time.

However, in a partial loss the clause can, in fact, penalise an insured.

This is because a day one clause requires the declared value at ‘day one’ (inception date of the policy period) to be correct and will apply average on the basis of that sum. The ‘average’ clause applies on a day one policy as soon as the declared value is slightly out – effectively insurers can apply average as soon as the declared value is as little as £1 out.

Given that most policies these days contain an 85 per cent average condition within the reinstatement clause, the insured could find they would be better off without the day one clause.

Therefore, policyholders need to work with their advisers and consider the pros and cons of a day one clause versus traditional reinstatement and consider which is the most suitable for their needs.

**The importance of accuracy**

Policyholders also need to ensure that they set the sum insured accurately for buildings and machinery and plant. As ever, protecting against underinsurance is about having an accurate valuation setting the sums insured and declared values accordingly, taking into account current rebuilding rates, allowances for debris removal, site clearance, professional fees and local authority requirements plus any regional variations. Similarly, machinery and plant valuations need to be accurately measured based on current reinstatement value (i.e. new-for-old) plus installation/commissioning costs and any associated charges, not second-hand values or written down net realisable cost as per the management accounts.

While it is the insured’s responsibility to set values accurately, this is usually best achieved via an independent expert valuation. In certain circumstances, some insurers are now prepared to waive the average clause altogether, backed by an approved professional valuation carried out and updated every three to five years.

It may also be prudent to add a percentage to the sum insured to allow for inflation. There could be as long as three years between taking out a policy and having to pay for a rebuild. Insurers may charge more premium for higher values, but then they are likely to charge for day one clauses with uplifts above 10 per cent or more.

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**Example**

A client insures a building that would cost £1 million to rebuild for a sum insured of £900,000, but suffers a partial loss of £500,000 after six months. Assuming building inflation runs at an annual rate of 3 per cent, the insured would receive £450,000 (i.e. sum insured/cost to rebuild on day one x loss) on a day one basis, compared with the full £500,000 payable under the 85 per cent average clause. In a total loss situation, using the same example, the insured would receive £913,500 (£900,000 x 3 per cent x 6/12 months) on a day one wording, slightly more than the £900,000 sum insured.
Heavy penalties for H&S breaches

Health and safety fines and penalties have sky-rocketed since the courts implemented revised sentencing guidelines on 1 February 2016. In the first year under the guidelines, 23 fines of £1 million or more were issued. That’s more seven-figure fines than the previous 20 years combined.

The largest 20 fines in 2016 cost offending businesses a total of £38.6 million compared with £14.8 million in 2015. The biggest was £5 million, handed to Merlin Entertainments after five people were seriously hurt at its Alton Towers theme park. However, bigger fines are expected as courts get more comfortable with the guidelines.

“If you breach the law and are prosecuted it’s going to cost you much more than before, and the likelihood of individuals receiving prison sentences is also much higher,” says Jamie Fitzroy, Risk Management Consultant for JLT Specialty. Of the 67 individuals prosecuted in the first year under the guidelines, 61 per cent were given custodial sentences – triple the previous year’s figure.

Crucial changes to the way penalties are issued include the severity of offences being graded on the risk of harm rather than actual outcomes, and fines being determined according to the size and turnover of the offending company.

Companies could face fines of up to £10 million, and are unlimited for organisations with turnovers far exceeding £50 million. However, the majority of prosecutions last year (80 per cent) were made against SMEs with fewer than 250 employees, with an average fine of £82,047. As the courts clamp down, senior management must invest in risk management initiatives and enforce safety from the top down, says Fitzroy.

“Businesses need to ensure they have robust management systems and incident response plans in place so that, if something does go wrong, they can reduce the chances of prosecution, or can at least demonstrate effective systems and procedures as mitigation.

“If they get it right, no one will get hurt and they won’t have to worry about potentially damaging fines and penalties.”

DID YOU KNOW?

Biggest fines under the new guidelines

<table>
<thead>
<tr>
<th>Company</th>
<th>Fine (£)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merlin Entertainments</td>
<td>£5m</td>
</tr>
<tr>
<td>Network Rail</td>
<td>£4m</td>
</tr>
<tr>
<td>ConocoPhillips</td>
<td>£3m</td>
</tr>
<tr>
<td>Balfour Beatty</td>
<td>£2.5m</td>
</tr>
<tr>
<td>Cristal Pigment (x2)</td>
<td>£2.4m</td>
</tr>
<tr>
<td>Decco</td>
<td>£2.2m</td>
</tr>
<tr>
<td>Wilko</td>
<td>£2.2m</td>
</tr>
<tr>
<td>Tata Steel</td>
<td>£2m</td>
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<tr>
<td>Travis Perkins</td>
<td>£2m</td>
</tr>
<tr>
<td>Warburtons</td>
<td>£2m</td>
</tr>
</tbody>
</table>

Source: DWF LLP Legal update 2017/02

BACK TO BASICS

Business interruption – the core principles

If the unexpected strikes and your business is interrupted, having the correct sum insured and maximum indemnity period (MIP) on your business interruption (BI) policy is vital if you are to recover the full value of your loss.

BI indemnifies the policyholder for lost turnover or gross profit that would be earned “but for” the insured event, including future growth in the business.

Underinsuring your BI policy can be costly. Some policies include an ‘average’ condition whereby the settlement value may be proportionately reduced based on the ratio of sum insured over value at risk. “Declaration-linked” policies contain no ‘average’ condition, but do penalise the insured if the value declared is materially different to the value at risk.

The policyholder must also select an MIP of sufficient duration to allow for the physical reinstatement of damaged assets and for the business to recover to anticipated levels of turnover. In our experience, 12 months is not usually sufficient time for most businesses to fully recover.

If a building is damaged, insureds must consider the cost and time impact of both rebuilding and partial repair. Most claims involve partial damage rather than total loss and require repair rather than a complete rebuild. On a pro-rata basis relative to the extent of damage, partial reinstatement nearly always takes longer than a complete rebuild.

Building owners must consider the impact of planning and regulatory processes, while tenants may find that slow decision-making from landlords can lengthen delays.

When replacing production-critical plant or equipment, insureds probably cannot influence manufacturers’ supply timelines, so we recommend assessing potential lead times conservatively when considering repair or replacement options.

The MIP duration must also allow time to recover or replace lost customers. If an annually negotiated supply contract is interrupted, it could result in losing the customer at the next renewal, for example.

BI can be complicated, but working with your broker to map your risks and ensure you have the right insured sum and MIP are vital first steps.
Big data is growing. According to a report by market research firm IDC in March, worldwide revenues from big data and business analytics will grow more than 12 per cent this year to reach $150.8 billion by the end of 2017.

As the company’s Group Vice President observes: “[Big] data and business analytics solutions have now finally hit mainstream.”

And it’s being used by organisations of all sizes. Another recent survey showed three quarters of SMEs are planning a big data or analytics project within the next 12 months. Big data is increasingly seen as a leveller, helping small and mid-market businesses compete. That’s certainly the story in insurance, says David Flandro, Global Head of Analytics at JLT Re.

“It used to be that the big insurance companies enjoyed economies of scale when it came to areas requiring real underwriting skill or risk modelling. Now the right data or analysis can give small or mid-sized entities a comparative advantage in certain lines of business.”

A PwC survey in 2015 showed 93 per cent of insurance CEOs thought data mining and analysis was the most strategically important digital technology for their business. Gregg Holtmeier, Executive Vice President at JLT Re, says this should be broadly positive for insurance buyers, as big data enables underwriters to improve risk assessments and forecast potential losses.

“One benefit is that, in some cases, there is now data to assess risks that were previously uninsurable; another is that a more granular and scientific evaluation should ultimately lead to lower premiums,” he says.

But the same technology can also be used by businesses themselves – not only to transfer their risk but to manage it better. It’s something Airmic’s Deputy CEO and Technical Director, Julia Graham, says has started looking at as part of its new ‘Roads to Revolution’ research project to be published later this year, says Airmic’s Deputy CEO and Technical Director, Julia Graham. “The digital age is giving business great opportunities to capture and manipulate data around risk,” she says. For risk managers to use it, though, they need to have a sufficient understanding to be able to collaborate intelligently on big data and data analytics with technical staff in the organisation.

Big possibilities

The potential applications are as varied as the data itself. In some areas of risk, big data analysis is already rapidly becoming the norm. Another consultant, EY, last year published its Global Forensic Data Analytics Survey showing big data being heavily used in identifying fraud and corruption, with companies increasingly analysing not just traditional transactional data but also emails, social media and text messages, for example.

Yet another area where big data will play an increasing role is fleet risk management. Telematics now allows insurers and fleet risk managers to collect detailed information on vehicles’ position, speed and the time of any incidents for analysis.

Combine this with other data, such as information on weather and temperature conditions, and analytics can start...
to identify the factors contributing to accidents. “We could get a much more detailed picture of how incidents occur,” says Emma Craddock, a JLT Re Partner responsible for providing analytical services to JLT Specialty and its clients.

Weather data could help in analysing construction claims, she adds, while telematics-type technology is not just applicable to fleet risks, but also large-scale shipping.

More widely, increased analytical power can help draw new lessons from existing data to enable businesses to look at interrelationships between their risks. “With big corporate clients, we’re already trying to create holistic models of their entire risk world so we can see how risks interact and what a really bad year could look like – even if it came from multiple correlated and uncorrelated risks,” says Craddock. “It’s not the data or computing power that’s the limiting factor now; it’s only the ideas,” she concludes.

One potential exciting area will be to redefine the period(s) for risk transfer products, as faster accurate risk data will open up possibilities for a more dynamic approach to risk management, providing opportunities and enabling new data-driven products and closer alignment to specific ‘point in time’ exposures.

Another related danger is that businesses – both insurers and their clients – gather data unnecessarily. “One of our concerns is that, when you’ve got the ability to gather data, there’s a temptation to capture everything and then try to work out what you’re going to do with it,” says Graham.

This can actually reduce the ability to extract meaningful information. “Big data can easily become bad data,” she adds.

Finally, it needs to be understood that the better understanding of risk that big data brings won’t necessarily be good news for everyone. As Holtmeier points out, there will be both winners and losers.

“Companies that have the right risk management mechanisms in place are well managed and take measures to ensure a better outcome for their insurers. They should see their premiums decrease because we’re going to have data to more accurately assess that risk. But there is a flip side; businesses that don’t have those things in place are going to be seen as a worse risk. Big data means we’re no longer going to have the good risks subsidising the bad.”

A big responsibility
There are a few notes of caution, though. The first is that collecting and processing data, particularly personal information, brings obligations to ensure you have the right permissions to process it and that you protect it. “The more data you collect, the greater your opportunities to violate data protection regulations,” warns Sarah Stephens, Head of Cyber, Content and New Technology Risks at JLT Specialty.
What could Brexit mean for UK employers?

Businesses must prepare themselves for the potential challenges they might face from the effects of Brexit on their workforce.

By Antony Ireland

United Kingdom businesses heavily reliant on migrant workers from within the European Union (EU) will be watching Brexit negotiations closely over the coming months. If the final deal restricts the free movement of workers into the UK, several sectors will see a major shift in workforce dynamics.

According to the Chartered Institute for Personnel and Development (CIPD), there were 2.26 million EU nationals working in the UK in September 2016, up nearly 10 per cent on the year before. More than half (56 per cent) of these workers are employed in either wholesale and retail, health and social work, accommodation and food services, construction and manufacturing.

CIPD’s Labour Market Outlook for Winter 2016-17 found that almost one in three (29 per cent) employers say they have evidence that EU nationals looked to leave their organisation and/or the UK as a result of the Brexit referendum in June 2016, and a similar proportion (27 per cent) expect them to consider doing so in 2017.

These figures are even higher in the public sector, where two thirds of organisations employ EU nationals and 42 per cent have seen staff leave as a result of the referendum. On 24 March, Business Insider reported that the number of EU nationals registering as nurses in England had dropped by 92 per cent since the vote. In the agriculture (agri) sector, wages are already going up and farms are fighting over a smaller pool of employees, according to JLT Specialty’s Food & Agri Practice Leader, Simon Lusher. “Many employees went home for Christmas and didn’t return due to uncertainty over their futures in the UK,” he explains.

Workforce crisis

According to HR consultant Mercer, the UK was already facing a “workforce crisis” prior to the vote owing to its ageing population. If the government limits net migration to 100,000 (from the 2016 figure of 335,000), Mercer says existing pressures on the workforce will be compounded, while a limit of 40,000 would cause “dramatic headwinds”.

A significant reduction in EU migrant flow into the UK labour pool will force wages to rise, destabilising the workforce and potentially exposing thousands of businesses to increased risk.

While the consensus is that this scenario is unlikely, if the final terms of Brexit require existing EU-born workers to leave the UK, the consequences could be particularly severe.

Nevertheless, until assurances are made over the security of foreign workers’ positions, uncertainty remains and it will be difficult for companies to reassure their staff to stay in the UK.

“We don’t yet know if this will be a short-term or long-term problem. When Brexit becomes a full reality, the supply of labour may be replenished depending on the terms of the agreement,” says Lusher, noting that concerned companies in the food and agri sectors are working together to lobby the government to negotiate a Brexit deal that limits the impact on the workforce.

“For the past few decades, these sectors have been built around the
single market, common agricultural policy and the free movement of labour. “Without these foundations, they are effectively starting again from scratch,” Lusher explains.

There is also concern in the construction and engineering sector that Brexit will exacerbate existing workforce pressures. “There is already quite a substantial skills shortage in the construction industry,” says Dave Cahill, Senior Partner in the Construction team at JLT Specialty. “Stopping the free movement of labour from the EU is worrying as more people are needed as it is.”

**A transient, expensive workforce**

As competition for staff increases, wages are expected to rise, putting pressure on profit margins and driving up the price of goods as well as employee-related insurance coverages.

“This puts contractors in the construction sector in a perilous situation as they may not be able to deliver projects at the price they tendered,” says Cahill.

Higher wages will also make employees more likely to move jobs in search of better pay. And with fewer EU-born replacements able to fill positions, the workforce could become more transient. “This presents a risk to contractors as they could end up with a less familiar workforce and therefore a potentially increased health and safety hazard,” Cahill says.

In JLT’s experience, companies with stable workforces usually have better personal injury claims experiences owing to superior workplace safety and team culture, as well as staff loyalty, and we advise businesses to focus on risk management as their workforces come under stress.

“There may be a temptation for businesses to see insurance as a backstop in these circumstances; however, a worsening claims experience will impact upon the premium or excesses borne by that company” says Cahill.

Employing foreign workers is not without risks of its own – employers, for example, must overcome language barriers when training or briefing foreign staff on procedures. However, replacing trained staff with untrained locals may present a much greater safety risk.

“Most of the foreign labour force has been in this country for a long time, so has been highly trained with specific skill sets. If you suddenly have people with no experience doing knife work or operating agricultural equipment, you have to expect that accident rates will rise,” says Lusher.

“The onus is on employers to strictly enforce health and safety policies and train new staff to ensure they are swiftly brought up to a skill level appropriate to the job they are doing,” he says.

Increased reliance on temporary or unskilled workers could also heighten public liability exposures. Cross-contamination and bio-security are major concerns in the food sector, for example. Similarly, a failure to follow protocols and procedures can lead to major public liability claims in the healthcare sector or any business whose goods or services are consumed by the public. While risks like these can and should be mitigated at

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**Sectors most reliant on EU workers**

<table>
<thead>
<tr>
<th>Sector</th>
<th>Workforce</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACCOMMODATION AND FOOD SERVICES</td>
<td>1.94m</td>
</tr>
<tr>
<td>MANUFACTURING</td>
<td>3.42m</td>
</tr>
<tr>
<td>TRANSPORT AND STORAGE</td>
<td>1.65m</td>
</tr>
<tr>
<td>CONSTRUCTION</td>
<td>2.45m</td>
</tr>
<tr>
<td>AGRICULTURE, FORESTRY AND FISHING</td>
<td>0.39m</td>
</tr>
<tr>
<td>FINANCE AND INSURANCE SERVICES</td>
<td>1.30m</td>
</tr>
<tr>
<td>INFORMATION AND COMMUNICATION</td>
<td>1.31m</td>
</tr>
<tr>
<td>WHOLESALE, RETAIL, REPAIR OF VEHICLES</td>
<td>4.41m</td>
</tr>
<tr>
<td>PROFESSIONAL/SCIENTIFIC/TECHNICAL ACTIVITIES</td>
<td>2.30m</td>
</tr>
</tbody>
</table>

* Percentage shows those workers that are born in the EU

Source: Mercer

www.jltspecialty.com 9
management level, management itself will also be put under pressure by Brexit, as many EU-born employees now occupy senior positions in the UK.

Lusher adds that a weakening of the labour pool could also make businesses less resilient to certain risks. “We are already hearing of poultry businesses shutting down processing plants and farms. If a government order comes to kill flocks due to a bird flu outbreak, for example, some may see little point in replenishing their stock if there is stress on their workforce.”

**Productivity challenges**

Then there is the issue of reduced productivity. UK car manufacturing, for example, hit record production highs in 2016, but external investment into the sector has already reportedly dropped off because of Brexit fears. It will be difficult to sustain growth with a smaller, less-skilled workforce.

The labour squeeze may force industries such as manufacturing, construction, food and agri processing to accelerate investment in robotics to automate repetitive job functions – which could in turn increase productivity and go some way to plugging a labour gap over the longer term. However, these technologies are still in the early stages of adoption in most sectors.

Now is therefore a prudent time for businesses to engage their brokers to assess how the changing workforce environment may affect their risk profiles and insurance coverage, and to implement risk management and staff retention strategies where appropriate.

**Retaining talent**

Faced with potential labour shortages and changes to EU immigration policy, businesses may be forced to operate with reduced workforces or to absorb extra cost to retain or employ EU nationals. With wages set to rise and competition over staff likely to intensify, companies should consider which roles are critical to their ongoing success and work hard to retain staff in these positions.

In an environment of increased competition, employers may wish to consider employing staff on longer contracts and working with their brokers to tailor flexible employee benefits packages in a bid to attract, incentivise and retain workers. They should also consider how to diversify their workforces and make jobs more attractive to new talent.

Potential challenges  
- Higher wage bills  
- Less stable workforce  
- Staff shortage  
- Reduced productivity  
- Poorer workplace safety  
- Increased injury claims  
- Increased liability risk  
- Higher premiums  

Risk mitigation  
- Longer contracts  
- Employee benefits  
- Create new roles to attract skilled talent  
- Target more diverse labour pool  
- Automation of repetitive tasks  
- Strict enforcement of health and safety  
- Improve training  
- Review coverage with broker  
- Demonstrate risk management to insurers
Reimagining reinstatement

There are many ways to rebuild a business after a fire or a flood, but there are considerations when settling with the insurer.

By Stuart Collins

No one wants to suffer a major loss. But, if it happens, you don’t have to reinstate exactly what was there before. In many cases policyholders have used insurance proceeds to rebuild on an alternative site, or turn premises that start off as a temporary solution into a permanent home.

Most standard commercial property insurance is flexible enough to allow the insured to do this. Insurance aims to put a business back to where it was before the loss. But policy wordings will allow an insured to “reinstate” in a different manner or on a different site.

There are good reasons why a business that has suffered a loss may wish to reinstate on a different basis, explain Ian Fulton and Adrian Brennan, both Partners at Echelon Claims Consultants. It may be that an alternative reinstatement is an opportunity to make changes to a business premises or to minimise business interruption.

For example, Brennan recalls a UK business client that suffered flooding twice in six years. On the second time the company decided it was in their long-term interest to relocate to a site outside of the floodplain. Echelon also handled a claim where a school urgently needed new premises after a newly built school was destroyed by a fire. Rather than suffer years of disruption, they went about remodelling a nearby vacant school.

In another claim, reinstatement following a fire at a leased warehouse and production facility proved less than straightforward. Rebuilding the business premises was expected to take two years: six months longer than the insured’s maximum indemnity period.

Rather than suffer a six-month uninsured loss, the policyholder decided to lease alternative premises on a permanent basis. According to Brennan, the claim highlights a common pitfall with reinstatement claims.

“People tend to take an over-optimistic view of how long it takes to reinstate a business. In this claim the insurer leased the premises, so the rebuild was in the hands of the landlord, who will often have a different agenda,” he says.

In this instance the landlord wanted to rebuild in a different style, which would have taken longer than a like-for-like build. The demolition of the site was also complex and took four months.

“Insurers may be prepared to offer a cash settlement that allows you to relocate or reimagine the business.”

“While it is good that insurers are flexible when it comes to reinstatement, policyholders need to be mindful of the potential issues,” advises Fulton, who represented the school in its claim.

For example, relocating to a new site or temporary premises will come with additional costs that may not be covered by insurance. In the case of the warehouse fire, the insurer had to fund the residual value of the capital expenditure incurred in upgrading the energy supply at the new premises.

And while business interruption cover should fund a temporary workaround, insurers will test the economics of the additional costs incurred in mitigating the loss. The policyholder can purchase additional increased cost of working cover to recover any uneconomic expenditure incurred.

As noted, insurers will also expect to realise any residual value of assets, such as the purchase of temporary equipment.

Paying the price

While usually willing to be flexible, insurers will limit their liability to the cost of reinstating at the original site. In the case of Fulton’s school fire claim, the policyholder wanted flexibility over when and how they reinstated, and so sought a cash settlement.

Because there would be no proof of costs incurred, the basis of claim settlement reverted to indemnity, with the insurer seeking a reduced settlement to reflect “wear and tear” to damaged premises and equipment.

The insurer also felt there was an opportunity to develop the site damaged by fire and sought to reduce the value of the settlement accordingly. Eventually the parties agreed a cash settlement.

“Insurers may be prepared to offer a cash settlement that allows you to relocate or reimagine the business. But if you intend to do something radical then this should be raised as soon as possible,” says Brennan.

Fulton agrees: “Reinstatement clauses give insureds considerable flexibility and the opportunity to make changes to their business. But you will need to make decisions quickly and communicate with your adjuster and insurer at all times.”

For further information, please email adrianbrennan@echelonccl.com

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RISKING REPUTATION

Reputations can be damaged quicker and more extensively than ever before, so companies must manage the risks in case their reputation does take a hit.

By Peter Davy

The answer is 64. It’s not the meaning of “life, the universe and everything” author Douglas Adams famously posited on the number 42, but it is a key figure for business. According to Reputation Institute, it’s the measure of an average company’s reputation.

The research and advisory firm says there is a strong correlation between this and consumers’ willingness to buy from a business. “In today’s world, where products are becoming a commodity, it is more about who you are as a company than what you sell,” says Kasper Ulf Nielsen, Executive Partner at Reputation Institute. The Institute goes further though and argues that reputations can be measured using the RepTrak® framework. It does so on a scale of 0 to 100. A score of 40 or below is considered weak, above 80 is excellent, and 64 is the global average.

Social pressure

While they might not have given it a number, most companies acknowledge the importance of reputation. The best-known corporate scandals inevitably involve high-street brands, but smaller mid-market businesses are equally at risk – if not more so, says Edel Ryan, Partner at JLT Specialty.

“If you have several thousand customers, it takes something big for a significant percentage to take umbrage. For a mid-market business selling B2B, one client could be worth 10 per cent of their revenue.”

In the consumer space, meanwhile, smaller businesses are often more likely to trade on ethics, environmental credentials or health. That’s the case in food production where Fairtrade, organic produce and health food markets support thriving niche players.

“If someone starts tweeting about slave labour or workers paid below the minimum wage, it can quickly become a crisis,” says Lusher.

This gets to the heart of which risks most impact reputation, says Nielsen: protecting reputation means first recognising the factors that it is built on. His organisation identifies seven areas (see RepTrak® model). These include product quality and value, but also factors like corporate citizenship and workplace conditions and leadership.

Anything that casts doubt on a major contributor to reputation will carry the risk of a big impact to the business.

There are some common factors: senior executives represent the public face of a business, and can therefore have a strong influence on its identity.

“Reputation is a matter of trust so, if senior executives are found to be cheating on taxes or engaging in other unethical behaviour, it’s often a major risk to the business,” says Nielsen.

However, the precise contribution each factor makes to reputation will vary for each business.

For food production, where quality and safety are prerequisites, contamination is a major risk. Particularly for those trading in ethical niches, meanwhile, the key danger may be the discovery of abuses within the supply chain.

“For issues like food contamination, there are regulations to guide businesses to ensure food safety. There’s perhaps...
been less attention on supply chains and risks of discovering your coffee beans are being sourced with child labour, for example,” explains Lusher.

The key is not always to avoid an incident – which is sometimes not possible – but to ensure a good response should one occur. A product recall is a major risk for a food manufacturer but, handled well, the damage can be minimised significantly.

Wahaca, the Mexican restaurant chain, proved just how important the response to a crisis can be to avoid long-term damage. Takings plunged in the aftermath of the norovirus outbreak late last year, but the chain is now quickly recovering after voluntarily closing nine sites for deep cleaning and apologising in person to many of those who fell ill.

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Edel Ryan
Partner, JLT Specialty

Owner, Thomasina Miers reported that she was proud to have tackled it head on and threw everything at it, costing the business an absolute fortune but with a determination not to jeopardise what they had built.

Taking cover

Conversely, data breaches are increasingly a fact of life in the communications, technology and media sector, says Ryan, but a failure to be seen to respond effectively and quickly can have an impact beyond the costs of the attack itself. The TalkTalk data breach in 2015, for example, was reported to have cost the company in excess of 150,000 customers.

Traditional insurance offers some help for when things do go wrong. Financial lines for risks such as cyber breaches or directors’ and officers’ liabilities, as well as product recall policies, often include PR services to deal with media fallout from an incident.

However, reputation risk goes beyond this, says Nielsen: “If you are in the midst of a crisis and need to put out the fire, you call your PR agency. Reputation risk management, though, is about putting up smoke detectors.”

Nielsen says reputation itself could be covered by measuring how incidents change stakeholders’ attitudes on the issues that really matter to a business.

“Since we know how to measure it, we could insure it,” he says. In the meantime, insurance can already mitigate some of the damage a reputational hit can cause.

At JLT, Ryan has worked with a number of businesses to identify scenarios that would harm their reputation, and cover the losses that would result, but aren’t covered elsewhere.

By either writing a separate policy or attaching cover to existing insurance, such as a cyber policy, this loss of business can be insured against.

The approach is likely to become increasingly common as businesses recognise that their risks are changing, says Ryan: “Traditional fire and flood damage aren’t necessarily the real dangers to business anymore, particularly when you consider that major brands do not have any physical assets at all; take Airbnb and Uber as examples,” she points out.

Nielsen is right, though, that reputation risks are different for every business. That’s why it can’t be left to the insurance market to come up with policies, says Ryan.

“Given the opportunity, we will find a solution, but we need the business’ to influence the markets complete understanding of their particular risks and the scenarios that could have a catastrophic impact on their reputation,” she says. “Our role starts with listening.”

For more information

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Keeping up with technology

Technology is transforming the workplace, with everything from artificial intelligence (AI) to increased interconnectivity changing the way we work. But, while there are significant benefits to be gained, understanding how these advances affect risk is essential.

By Sam Barrett
The scale of the changes was highlighted in recent analysis by PwC. Its March 2017 UK Economic Outlook report estimated that up to 30 per cent of UK jobs are susceptible to automation such as AI and robotics by the early 2030s. And, while it predicts that many jobs will change rather than disappear, sectors such as transport, manufacturing, and wholesale and retail are likely to be affected the most.

**Technological benefits**

Even some of the more traditional sectors will be transformed. Take agriculture, where Simon Lusher, Head of Food & Agri at JLT Specialty, points to smart farming. “Farmers are flying drones over their fields to capture data about the crops. “This enables them to pinpoint water and fertiliser requirements, leading to higher yields of better quality crops,” he explains. “Livestock farmers are also using microchips to collect more data on their animals. This helps them identify when an animal is ill and ensure treatment is delivered quickly, aiding recovery and preventing the disease from spreading.”

Similarly, in the construction sector, Building Information Modelling (BIM) is bringing major changes. “BIM helps to identify the pinch points in a construction programme, which will have time and cost advantages,” explains Dave Cahill, Senior Partner at JLT Specialty.

He also flags up the increased use of offsite prefabrication and modularisation, which is increasingly common in the UK construction market. Again, this offers a faster, safer and cheaper way to build.

**Risk shift**

But, while technology offers benefits, it also affects risk. A good example is the shift to autonomous vehicles. These are already being used in closed environments, for instance to move iron ore in some of Rio Tinto’s mines in Australia, and are expected to become commonplace in the future. Lusher explains: “Autonomous vehicles are safer and reduce the risk of accidents but there is also the potential for a hacker to take control and cause considerable damage.”

Increasing reliance on technology brings a number of challenges; this has been seen at engineering firm Costain, where technology is increasingly used to capture data on infrastructure projects. “Technology has brought us much closer to the nation’s infrastructure, enabling us to identify problems and intervene much quicker,” says Peter Slater, Aerial Solutions UAV Manager at Costain. “But, for it to be economical, you have to fully trust the technology to give you the right answer.”

These issues will need to be addressed in contract terms and conditions.” Overhauling operational systems to take advantage of new technologies brings risk, too. As well as having to determine what will bring the biggest benefit to the business, Slater says there can be significant issues with implementation. “You can find that, when you scale up, it no longer works as expected. As a result, we encourage all technology ideas to be uploaded so they can be filtered before more cost is incurred.” His firm also has a number of governance routes in place to ensure the safety and business benefits of any new technology. These are rigorous and incorporate any industry-related safety requirements to reduce the risk. “We also speak to our brokers,” adds Slater. “It’s important to factor the insurance angle into our decisions when considering new technologies.” This reliance on insurance means insurers and their products must also adapt to suit these new technologies. Cahill says that cover is constantly evolving to fit changes in the market. “There are new risks for insurers to consider,” he says. “But, even with something as complex as shared liability, if it’s possible to manage contractually, the risk can be covered by insurance.”

**For more information**

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