CARE ENGLAND
The voice of care

towergate insurance

A handy guide on insurance and risk management

Navigating Insurance and How to Mitigate Risks

February 2025

Acknowledgements

Towergate Insurance provide insurance and risk management solutions to the care sector and their team of specialists will give advice and support to ensure care providers get the right cover in place. Working with Care England, National Care Forum and Homecare Association, Towergate recognise challenges faced by organisations in these sectors, and their Care Home and Domiciliary Care policies have been created to benefit care providers, rather than to minimise insurer claims and are continually evolving to meet the sector's needs. From a start-up domiciliary care agency to a large care home group, Towergate have the expertise to support organisations within the care sector.

Care England, the voice of care and registered charity, is the most diverse representative body for independent providers of adult social care in England.

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Introduction

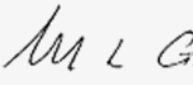
The independent adult social care sector is the backbone of support for millions of individuals and their families, providing essential services that uphold dignity and independence. Yet, operating in this sector comes with a unique set of risks, many of which have been amplified by the COVID-19 pandemic. Historic rises in insurance premiums and evolving challenges around risk management have placed additional burdens on care providers, threatening their ability to deliver the high-quality care society depends upon.

Recognising these pressures, Care England has commissioned Towergate Insurance to produce this must-read report for all social care providers a good three months prior to renewing their insurance to enlighten their understanding of both best practice and to ensure key risks are mitigated. With over 14 years of partnership and decades of experience in the sector, Towergate has proven itself uniquely equipped to navigate the complexities of care sector insurance. During the pandemic, when many insurers exited the market, Towergate remained steadfast, offering renewal terms, supporting providers, and ensuring claims were paid. Care England is concerned at the re-entry of some brokers looking to capitalise on the care sector. Our enduring partnership with Towergate reflects a shared commitment to equipping care providers with the essential tools, knowledge and insight they need to navigate the world of insurance to succeed.

This report serves as a vital resource, addressing not only the fluctuating cost of premiums but also the dangers of underinsurance and the critical importance of having the right cover and protections in place. It provides practical insights on topics such as the impact of CQC ratings on policies, mitigating cyber risks, and understanding liability, offering care providers the knowledge needed to safeguard their operations and focus on what matters most, delivering quality care.

As the sector faces increasing uncertainty, this report highlights the role of insurance not just as a protective measure but as an enabler of resilience. By ensuring that organisations are properly covered, we can help secure the long-term sustainability of care services, protecting the people who rely on them and the dedicated workforce who provide care.

I hope this report provides clarity and confidence, and empowers care providers to make informed decisions and face the future with enhanced assurance.



Professor Martin Green OBE
Chief Executive, Care England

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Why Insurance is important

It's essential that you are sourcing the correct protection for your business, which may mean speaking to different brokers or insurers to find the right cover for you – every business is individual with its own unique requirements and should be treated as such.

The main reason for making sure you have the right protection in place is due to the chance that you may need to make a claim during your policy tenure. Some of the claims that we have seen from care homes value from £27,000 to over £1 million and range from building claims to cyber breaches.

The impact of CQC ratings on insurance

One of the things insurers look at is CQC ratings, which can depict the quality of care at your business. If your care home was rated below 'good', there are things you can do to try to change this, for instance, you could improve this with good visibility of leadership, good quality structure and sustaining levels, as well as evidencing it.

We understand that the CQC rating is a very important measure of quality, and it is something which insurers will look at when trying to assess risk. The CQC have themselves acknowledged that there have been delays with inspections, so if you are in a situation where your rating has not been reviewed for some considerable time, or if you have a rating that is below "good" and there's been no CQC assessment of the service for a long time, it is important that you speak to your broker or insurer and give them other measures you use to assess the quality of the services you provide

Ensure you have the right evidence and data being gathered without it being excessive. Ask yourself what you need this information for and speak to a broker to see what information they'd recommend you gather too. At this point, you will get a clear picture of whether your broker understands the sector fully as they should be able to assist you with this.

Declarations required to obtain an insurance policy

Taking out an insurance policy is something that should be thoroughly researched so you are confident in the insurer or broker and the policy provided. Should you ever need to use them, you want them to be able to work on your behalf to get the best outcome for your business.

Insurers also need to assess your business as a risk and to understand if they can provide the cover you require. It shouldn't be seen as a necessarily negative process, as if you are deemed to be a good risk then an insurer may reduce your premiums.

Examples of questions you should be prepared to answer include, but are not limited to:

- Have you ever had a policy declined for renewal, cancelled or imposed special terms?
- Have you been prosecuted under the Health and Safety at Work Act or similar?
- Have you been served a Prohibition Notice under the Health and Safety at Work Act?
- Have there been any legal disputes in connection with any company, business or firm in which any Director Partner etc of you have been involved?
- Has any Director, Partner or Representative been convicted of (or charged but not yet tried for) any offence other than a driving offence?
- Has any Director, Partner or Representative been declared bankrupt or subject to bankruptcy proceedings, liquidation, administration etc?
- Has any Director, Partner or Representative had County Court Judgements made in a personal capacity or in connection with any company etc?
- Has any Director, Partner or Representative had any disciplinary action or been subject to criminal proceedings?

It's generally a requirement that due to the nature of the role in which they are partaking, staff who have responsibility/are involved in caring for people have enhanced DBS checks and other supplementary background checks, as well as a thorough induction and ongoing training.

What is the difference between an insurer and a broker?

You may wonder why brokers, as well as insurance companies, are detailed within this guide, and we want to make sure that you understand the differences between them.

An insurance company (the insurer) is a business that offers insurance policies to clients, either via themselves or via a broker. A broker acts as an intermediary between a client and the insurer, dealing with policy amends with the insurer on a client's behalf, providing a specialist service to you, as opposed to the insurance provider. A broker will likely be able to offer a variety of policy types via different insurers that they work with.

Essentially, a broker may be able to save you time and money, as well as handle relationships with the insurers, so you don't have any extra worries to think about.

Brokers have access to a wide market and can identify the most suitable insurers for your specific insurance requirements. Brokers offer advice on specific risks and work with insurers to come up with bespoke products for the most suitable coverage and protection. Brokers can search for a product to meet your needs and provide you with the key features of that policy, arranging cover for you on behalf of the insurer.

Insurance for new start-ups

Finalising your business for a quote

When you reach out to get a quote as a start-up business within the care sector, normally you would be asked for some key pieces of information and documents, before a broker can speak to an insurer to get you the best terms.

This may seem counterintuitive, as you want to have an insurance quote to be able to start your journey, but brokers and insurers need to know more about the business they may be insuring.

To do this, you may be required to provide:

- A completed broker proposal form
- Your business plan
- Your three-year financial projection
- Your registered manager's CV
- Your statement of purpose

Once you have shared all the relevant documents with a broker or insurer, you will most likely be called by an insurance adviser, to discuss your requirements further. This initial call would normally include a review to understand your unique business needs, but it also presents you with a chance to ask any questions that you may have regarding insurance and risk management.

Receiving your quote and purchasing a policy

Following all this information, the insurer (working on your behalf or the broker of your choice) should produce a quote unique to your business that includes the cover requirements discussed; to help ensure you are protected for the right amount with the right policy.

It is essential that once you receive a quote from an insurance provider or broker, you understand each section and are happy and confident that the policy meets your needs.

Along with your quote, you should also receive policy wording, which should be reviewed and saved in a safe place and take time to familiarise yourself with the terms and conditions.

Once you confirm you are happy with the quote and policy shared with you, the insurer/broker should start the policy on a date that suits you.

Once you have insurance in place, you are ready to trade!

Insurance when you are up and running

Identifying your risks and exposures

A good broker will want to know just how well you understand your specific business risks and how they are managed. This conversation enables the care provider to work out what cover will suit their business requirements best and to also see how the broker can assist with the best policy for their risks.

Renewing an insurance policy

When should I start thinking about my business renewal?

Start making arrangements with your insurer or broker 90 days in advance of the business renewal date. It's a good opportunity to tell them about what is happening in your business, such as changes to residents or clients, income and anything else that could be of significance, so they are able to obtain a renewal quotation on the correct basis.

What additional information may be needed?

You should be prepared to provide additional information as your renewal approaches, including your business plan. If you and your broker decide to look for other quotes within the market, you should expect to be asked for a wealth of information about your business, including:

- Business activities undertaken
- Risk management procedures
- Recruitment policies
- Construction details of care homes
- Directors' history in terms of past bankruptcies and convictions

You can also expect insurers to ask about any changes to your business activities or sums insured, claims review and your current CQC position; if your business has a rating lower than 'Good' (or equivalent for other regulatory bodies), insurers will expect to see relevant action plans and commentary.

Keeping records up to date

It is important to make sure that your policies and procedures are robust in terms of being able to defend a potential claim; insurers will always expect that you are acting with reasonable care. With that in mind, you will need to fully demonstrate that you have undertaken and suitably documented:

- Necessary risk assessments
- Staff training
- Care plans
- Evidence that you have been complying with the latest guidelines

It is however worth mentioning that although insurers may successfully defend any claims made against you, you may have to pay for the defence costs of any claims, including solicitor fees.

You will need to check if your business policy has Liability sections included, which may be able to cover legal costs, such as claimants, legal representation at coroner's inquest/ proceedings in court arising out of any breach of statutory duty and other costs relating to matters which may form the subject of a claim.

It's also worth finding out if your policy includes or has the option to add Legal Expenses. This may then be able to cover you for own and other party costs from Contract Disputes, Criminal Defence, Employment Disputes, Tax Protection, Property/ Landlords/ Tenant Disputes, Regulatory Compliance, Pension Trustee Defence, Wrongful Arrest and Court Attendance costs (Jury Service & Witness Attendance Allowance).

The importance of keeping your policy updated

Keeping your broker up to date with any updates throughout the year means they are able to provide an appropriate quote when your renewal comes around. It also means you are covered correctly and should you ever need to make a claim, can do so with the knowledge that you have disclosed all relevant changes.

Many things can change within 12 months so you may omit factors that may seem less important, but it could end up costing you further down the line. Some examples of information that should be updated, include:

Updated building or new addresses: Always inform your broker before you update your building or plan to move, as they will need to do checks such as security, construction and floods. If you wait until after the building or move has been completed, you could have problems, such as being uninsured at the location until all checks are completed.

Activities: Insurers will have some activities they will not cover or will require additional terms and conditions. If you do not make your broker aware of any activities, it could affect the settlement of any potential claims, even if the claims are unrelated to the activity in question.

If you haven't updated your broker on changes to the business, then you may not be covered correctly, so always make sure you keep them in the loop and up to date.

Explanation of business insurance cover

What covers are considered 'standard'

Most insurance policies out there will all offer standard cover, that will be essential to the work you and your staff do on a day-to-day basis and depending on which type of organisation you have, these include:

Standard Care Home Cover

- Contents
- Business Interruption
- Money either in transit or at the premises
- Loss of Registration
- Employers Liability
- Public and Products Liability
- Malpractice Liability
- Professional Indemnity

Standard Domiciliary Care Cover

- Property and Contents
- Computer Breakdown
- Business Interruption
- Glass
- Money either in transit or in and out of safes
- Loss of Registration
- Employers Liability
- Public & Products Liability
- Malpractice Liability
- Personal Accident

Depending on which insurance broker you choose to place your business with, look out for additional extras that are also available for you such as legal expenses, 24-7 stress phone lines, and online support.

The different liabilities explained

Employers' Liability

Why is it a legal requirement?

It is a legal requirement in the UK to have Employers' Liability insurance if you have any staff working for you, as this will protect them from accidents and bodily injury which are deemed to be your fault while working for you. If you have any full or part time staff, volunteers, interns, contracted or freelance workers, it's your responsibility to have the correct cover in place.

Common instances where employers' liability insurance can help include an employee injuring themselves on poorly protected work equipment or suffering from work-related stress. This kind of insurance protects employees and allows businesses to meet their legal obligations without the threat of financial loss.

Should an employee injure themselves as a result of your business, you could be liable in a compensation claim against you. When looking for Employers' Liability you should ideally look for a policy that covers up to £10 million for any one claim as standard.

Displaying your Employers' Liability certificate

It is also a legal requirement to display your Employers' Liability insurance certificate in a prominent place where your staff have access to it. When you display a physical copy of your certificate, it is important that this is done so in an accessible area, such as a hallway or room that all staff have access to.

There are other documents you are legally required to display, such as health and safety and fire safety certificates, so it is typically advised that you display these altogether, as well as a list of first aiders employed by the company and fire evacuation arrangements.

It is possible to display the Employers' Liability certificate electronically, provided you explain to your employees how they can access it. This is typically stored on your company intranet or shared network drive so that all your employees have access to it.

Here is a link to the government website on this: https://www.gov.uk/employers-liability-insurance

Public Liability

The differences between Public Liability and Employers' Liability

Public Liability insurance deals with claims from non-employees, such as customers or visitors and unlike Employers' Liability, is not a legal requirement and is considered optional cover, however all good brokers, will highly recommend investing in this policy to reduce the effect of similar allegations of accidental injury to third parties or damage to their property. Contracts with public bodies such as the NHS or a local authority will often require a public liability policy to be in place and may stipulate the level of cover required.

Together with Employers' Liability, these will ensure substantial protection against unforeseen events, as without adequate insurance, businesses can face severe consequences including legal penalties for not having compulsory employers' liability insurance. Sometimes it can even lead to bankruptcy from paying out claims for injuries or damages.

It is also, although not mandatory, good practice to display a public liability insurance certificate.

Choosing the right insurance for your business

When you're choosing the right business insurance for you, assess your need for each type of insurance. Evaluate your business operations, the types of properties and locations worked at. Your processes, and whether any of these are potentially hazardous such as work at height or involving the application of heat. Consider the number of employees, as well as the individual risks you face.

Companies with direct customer interaction or hazardous environments would benefit from Public Liability insurance with higher limits of indemnity. Ask your insurance broker for guidance on suitable Public Liability coverage.

Professional Indemnity Insurance

Professional Indemnity insurance covers claims that arise due to loss or damage for a breach of professional duty or when negligent services or advice has been given in connection with your business activities.

Medical Malpractice Liability

Medical Malpractice (provides cover for claims that may be made by your clients for any physical or mental harm caused as a result of negligence in any treatment or medical services that are provided as part of your care.

Vicarious liability

The legal principle of vicarious liability is when one party is held liable for the harm caused by the actions of another individual. The main example of vicarious liability arises from the relationship between an employer and employee, the rule being that the employer is vicariously liable for the errors and omissions committed by the employee. For example, if an employee negligently operates a piece of machinery which subsequently injures a co-worker; the employer would have vicarious liability. Be aware that employers can be liable for claims many years after the incident has happened and if their business has been sold on.

The importance of choosing the right 'business interruption' indemnity period

When looking for the right insurance policy for your business, you may find that some policies on the market offer a 12-month business interruption indemnity period. As important as getting the sum insured right is ensuring that you have the right indemnity period for your business.

Due to the nature of potential claims, 12 months may not be long enough for essential work to be taken up and completed and a 24-month business interruption period can be considered and discussed with your broker.

Why is this period important?

There's a lot that can happen to a business that is not the fault of anyone but rather caused by things outside of an organisation's control, such as weather damage, demolition and more.

For a business with a 24-month indemnity period, they would be covered for two years for any work that needs to be completed to the building to get it back to how it was before the incident, including securing the same number of residents. Below is a list of just some of the things that could happen where a 12-month business interruption period may not be long enough.

Reasons why rebuild could take longer

Worst case scenario may not always be a total loss
In fact, it could take longer for planning permissions, or to secure contractors to repair a partially damaged building; demolition or debris removal may be more complex if parts of the original building are being saved. Matching existing materials may have longer delivery times.

Location, location, location
Urban areas can potentially have access issues, which means it will take longer to get the materials to the site, agree on permissions, relocation may not be as easy for staff and residents, with potentially fewer options to move to, and with a chance of shorter hours of labour, you could be looking at a lengthier completion schedule.

Plan A?
Depending on local councils, merchants, suppliers and more, such as if the building is listed, you can never assume that the process will always be a simple one – there is lots that can go wrong or get in the way when planning to reinstate your business, so it's a good idea to prepare for a plan B.

Expert equipment
If your Care Home uses specialist machinery, there's a good chance that it may not be so easy to replace, and if you are able to find somewhere that can replace it, it could take longer to source, commission and install. There may even be cases in which a certain piece of equipment has to have custom made parts purchased, in which case a further wait will be likely. As for any new equipment, you will have to take into consideration the rollout and implementation of any employee training that may be needed.

I'm a Domiciliary Care provider – what about me?

The premises used by Domiciliary Care agencies tend to be used more for admin purposes only so are more likely to be offered a 12-month indemnity period. Normally, you should be able to source an alternative office in this period or arrange for staff to work from home depending on circumstances. However, Domiciliary Care agencies that operate Day Care Services and training on site; they will need to inform their broker who will be able to consider these points.

Need to make a claim?

Understanding the claims cycle

The first thing to do, should you need to make a claim is to **get in contact with your insurer or broker** to notify them of the incident and they can gain an understanding of the following to form a position on settlement:

- Who
- What
- Why
- When
- Where
- How

The next step is the **investigative stage,** where your insurer or broker will work with you to obtain evidence, which can include:

- Risk assessments
- Care plans
- Training records
- Witness statements
- Photos

Ultimately, you are the eyes and ears of the claims advisers, and you must work with them to ensure that your position, and by default, their position, is protected. This means you should be able to show all documents relating to an incident in a clear and concise way and in a timely period.

Once you have given all the information to your insurer or broker, they will manage the claim and evidence. If you are using a broker, they may work on your behalf with the insurer to get the best outcome for you. Having a point of contact who you can liaise with is essential when it comes to claims, as they will understand your business and the policy, meaning that they can keep you updated as the claim progresses.

After the claims process, it's a good time to take stock and review how well your Business Continuity Plan worked by asking employees and service users for their feedback. Make changes where necessary and communicate these to employees.

Claims Made Vs Claims Occurring – what is the difference?

Insurance policies can be written on either a "claims-occurring" or "claims-made" basis. Depending on the type of policy you have, this can make a huge difference to the validity of your claim.

Claims **Occurring**

Claims-occurring means that your policy will respond to claims that occur during the policy period irrespective of when the claim is made. So, a valid claim would be as a result of an incident that happened during the period of insurance even if this does not come to light until much later.

Example: A care policy was taken out on 15th June 2023 and at renewal on 15th June 2024 the policy lapsed as the client found a cheaper alternative with another insurer. On 21st August 2024, a public liability claim was reported with an incident date of 10th November 2023. The lapsed policy will respond as the incident occurred during the time the policy was insured.

The timing of the incident is crucial – the incident must have occurred during the period the business was insured. The policy must be in force at the time the incident occurs even if it was subsequently lapsed, and no other policy was taken out elsewhere.

Claims **Made**

Claims-made means that your policy will respond to claims submitted during your current period of insurance. Claims-made insurance is issued with a retroactive date, which means the policy will not deal with claims for incidents occurring before this date. In many instances, the retroactive date will be the date that cover is first taken out with an insurer. However, if you transfer your insurance and have previously been covered by a claims-made policy, the new insurer can normally confirm a retroactive date back to when you first took out this type of policy.

Example: A care policy was taken out for the first time on 1st January 2024. That date is the retroactive date, so claims would only be considered for incidents occurring after this date. However, if for example, you were transferring from another claims-made policy that you held for 2 years (i.e. since 1st January 2022) that date would be the retroactive date. The new policy would continue to respond to claims made during the current and any subsequent periods of insurance spanning the whole period since 1st January 2022.

However, if the claims-made insurance ended because you decided not to renew, all protection under your policy ceases and no new claims may be made. Under the Professional Indemnity section (Claims Made) of a policy, all claims must be notified or made during the period of insurance or within 30 days of expiry. After this, no new claims will be accepted. However, under the Directors & Officers Liability section (Claims Made) in certain circumstances, you may get 30 days from expiry during which a claim can be made or an incident reported.

Claims Examples

In the early hours of the morning, an electrical fault caused a fire to break out at a care home with 17 beds for supported living for those with mental health issues. Six fire engines and around 40 firefighters attended to put out the fire. Part of the roof of the three-storey property was damaged by the fire.

Scaffolding needed to be erected to make the roof safe and a full electrical rewire was required, as well as a full redecoration to mitigate internal smoke and fire damage.

In order to minimise the impact on the business this had to be done in a floor-by-floor basis, starting on the ground floor where work was less severe. Whilst this allowed the business to start inviting residents back sooner, it did delay the overall reinstatement period. Full reinstatement took 14 months due to the size and scale of repairs and totalled £442,664.

The 17 evacuated residents were moved into beds in a high needs facility and were gradually moved back into the original property as and when rooms became available. This not only led to interruption to the affected home, which missed various funding windows from local authorities, but also the high needs facility. In total, business interruption (through lost fees etc) totalled £675k. **This meant that the total cost of the claim for the incident was over £1 million pounds in total.**

The claimant was told by a senior carer to lift a service user from the floor without assistance from colleagues or mechanical assistance. As a result, she suffered soft tissue injuries to her back. The claim was litigated, with a total cost of £271k (made up of general damages, loss of earnings, and legal costs).

An employee entered the care home to start work when she was grabbed by the waist by a resident who was not under control. As she endeavoured to free herself, she fell to the floor fracturing her hip. She was taken by ambulance to the hospital and was off work for a considerable amount of time.

Due to the fracture, there was a 1cm difference in leg length, resulting in permanent disfigurement and a limp. The home was aware of the residents' behaviour prior to the incident, having completed a risk assessment due to a previous incident of a similar nature involving a manager being attacked: however, no steps were made to mitigate the risk to employees, and the risk assessment was not shared with wider staff.

As a result, the claim settled for £181k as the insured had a duty of care for the staff to protect them from a high risk resident and they breached that duty by failing to advise staff of the risk assessment completed and caused permanent injuries to the employee.

Underinsurance – the silent phenomenon costing companies

An insurance policy should be there for you when you need it most…but what if when you claim, it's only partially successful?

This is the situation more and more organisations are finding themselves in: an incident happens…they make a claim for it, and the claim is then only partially paid out. Particularly where buildings are concerned, policyholders are finding themselves on the line for extraordinary sums after discovering – too late – that they are underinsured.

It is recommended that as a minimum, you get your building valued every three years; this will make sure that your valuation is up to date as well as demonstrate you understand the potential risks involved around underinsurance. If however, there are any major changes made to your property, it may be advised you get a new valuation to take these into account.

What makes my building underinsured?

Underinsurance isn't an issue that arises from failing to check your policy T&Cs. The problem actually lies within the fluctuating value of the raw materials used in the building itself; because the cost of building materials has risen in recent years, the value of the average property will have increased in value, too. The increase in the cost of materials has been affected by several events around the world including:

- The COVID-19 pandemic
- Brexit
- The war in Ukraine
- Environmental impacts

The value of your building in 2020, for example, will likely differ from the value of your building today. As a consequence, any claim you make in the present day would – if successful – reflect the original value given to your insurer, resulting in a potentially significant loss.

Understanding the Average clause

It is common practice that the majority of UK commercial property insurance policies include an Average clause. This is included by insurers and underwriters to prevent policyholders from deliberately underinsuring.

Essentially, this means if you haven't paid the correct premium for your property, the claim paid will be reduced by the same percentage you are underinsured by.

This can have a devastating impact should your building suffer large scale damage but can also mean smaller claims are reduced by the percentage of underinsurance, meaning you may find some claims going completely unpaid.

A staggering 79% of commercial properties were found to be underinsured, with the average underinsured building only covered for just 63% of its actual value.[1]

According to Rebuild Cost Assessment,
nursing and care homes are the fourth most likely building type to be underinsured in the UK*

Accounting for the amount of an annual survey

An official survey of your property can be factored into your annual business budget, meaning that the cost is factored in each year as a known spend and you can focus on running your business in the knowledge that your insurance is sufficient for your business needs in the event you need it. Having an accurate building sum insured can also mean:

- Average Waiver Clause –some insurers will build this into your insurance policy which means should you be underinsured they will not apply Average
- The cost of a valuation pays for itself as in the event of a claim, you will receive the correct payment

Top tips to avoiding underinsurance

- Undertake valuations every three years by a professional valuations company to ensure the sums insured are correct – if you have had any work done to your building, consider getting a new valuation more frequently
- Make sure your building property sum insured is correct when purchasing insurance, to help avoid inadequate sums insured becoming less suitable year on year
- Sums insured for the building should be based on the reinstatement cost, not the market value of your property. If your property has particular features, restricted access or is a listed building, this could further impact the rebuild cost

1 UK: building materials and fixtures price indices 2023 | Statista

*This data is derived from RebuildCostASSESSMENT.com's most recent report, detailing 34,145 Rebuild Cost Assessments completed as of 31st August 2024

Typical Underinsurance Claims and Outcomes

A reputable broker will work with specialist loss adjusters to ensure their clients have the right protection in place and are covered correctly as they have seen a variety of care businesses that have been underinsured.

Incorrect Valuation Case Study

A loss adjuster surveyed a nursing home, converted from a HMO into a seventeen-bedroom facility for residents with dementia. The establishment had been purchased for £1.3m and had undergone renovations totalling £600,000. The client had utilised a combination of these figures plus inflation to insure their property for £2m, incorrectly believing this to be a suitable method.

Their survey found the correct reinstatement value of the property to be £4.6m, leaving the property underinsured by 57%, meaning that any valid insurance claim from small to total loss would be reduced by that percentage.

The mistake had been to rely on the market value of the property, which in this case due to its geographical location and the significant cost to reinstate many original features, meant this was insufficient for reinstatement purposes.

Other reasons for potential underinsurance would be if you determine your building rebuild cost as less than it may be when it comes to the work being done, which could be due to the materials required, as well as the cost to clear the site and gain relevant planning permissions, without considering the extra cost of any business interruption.

Managing risks outside of your core policy

When it comes to protecting your business, whilst insurance for your organisation is key there are other covers you should also consider, when looking to keep yourself, your staff, clients and business safe; these covers could be the lifeline you need should you find yourself faced with unexpected challenges.

Cyber and Data Protection – is this still relevant?

When GDPR came into effect in 2018, organisations in the health and social care sector were given much stricter guidelines than others on the collection, processing, and storage of personal data. It included increased protection of care home residents' personal data due to the sensitive nature of it.

Despite these changes taking place, many businesses operating in the health and social care sector do so with modest cyber security budgets and use potentially outdated IT systems, leaving many care businesses vulnerable targets for cybercriminals.

Why would cyber criminals want to target the care sector?

Care providers have access to a vast wealth of personal data which is very sensitive. Some of this data is 'personally identifiable information' (PII) which cannot be changed. Examples of this include:

- National Insurance number
- Passport number
- Driver's license number
- Place and date of birth
- Race and/or ethnicity

This type of data is very valuable for cybercriminals as it may be utilised for identity theft, fraudulent activities, or malicious intent. If a cyber-criminal manages to breach your systems, unlike other sectors, they pose a health and safety risk to individuals in your care, in addition to financial loss, business interruption and reputational damage.

Real examples of cyber claims

The Managing Director of a group of four care homes left to go on holiday to the South of France. On the day she left, a member of her accounts team received an email from 'her' stating that in her hurry to get the children organised for the flights to Nice she forgot to make a payment of £9,000 to a new supplier and instructed the colleague to make this payment on her behalf.

This request did not come from the Managing Director, but from a criminal gang who had been lurking in the client's systems waiting for the right moment to strike. The email which used the same sort of language as the MD came from the MD's email address, referenced the holiday and even used the nickname of the colleague.

An operator of seven care homes in southern England employed a Chartered Accountant with many years of experience to head up the finance division of his company. On a Friday afternoon, calls were received from 'Barclays' which were so convincing that the newly employed Finance Director made nine transfers of £12,000 before realising his error.

How to increase cyber security within your organisation

At all times, there should be appropriate measures in place to ensure that all data including PII, as well as any other data such as financial information and staff records, are handled securely.

Take a moment to review the following and ask yourself – am I helping protect service users and staff data?

- **Passwords** - ensure all information is kept secure by using strong passwords so data and systems cannot be accessed freely
- **Two-step verification -** add two-step verification or multi-factor authentication on all login devices that have this feature. This adds an extra layer of protection
- **Control access -** if a member of staff does not need to be privy to that data, then they should not be able to access it. Regularly review access privileges so that only authorised individuals can view sensitive information
- **Secure offline backups -** make sure that any offline copies are adequately secured
- **Update devices -** ensure all device systems and applications are updated when required to ensure they are up to date with the latest software security measures
- **Train staff -** cyber security training should be included in your onboarding and year-round training schedule as a mandatory requirement. All staff should be trained to follow best practices and be aware of the risks associated with not following the processes
- **Encryption -** some software will allow you to encrypt data into a code that can only become legible after it has been decrypted. If you are handling sensitive data, it is worth investigating if this can help you manage it more securely. This is particularly invaluable for PII data
- **Create an Incident Response Plan -** if you do find yourself in the position where you have been hacked, having a plan of action for this within your Business Continuity Plan will help you deal with the situation as promptly as possible

Management Liability Protection – what is it and how does it differ from Directors and Officers cover?

Businesses operating in the care sector are continuing to be subjected to ever increasing regulations and requirements which are having a significant impact on how they operate.

Over the past few years, the accountability of business owners, directors and officers has increased leaving them more exposed to claims being pursued against them individually, which can result in the loss of their personal assets and wealth whilst defending the allegations or claim.

Claims or allegations can arise from the following:

- Failure to comply with legislation and regulations (such as Health & Safety and Data Protection)
- Accidents in the workplace
- Shareholder disputes and the mismanagement of company funds
- Insolvency – creditors, administrators and liquidators
- A breach of their statutory, fiduciary & personal duties

A Directors & Officers policy will provide protection and cover for:

- Representation costs at investigations or hearings
- Legal defense costs
- Awards of damages and settlements
- Claimants' costs

As well as protecting the individuals running the business, a Management Liability Protection policy covers the entity, rather than just named individuals and is extended to include the following:

- *Corporate Entity Defense* – this extends the policy to protect the company itself from claims being brought against the business rather than the individual
- *Employment Practices Liability* – protection for the company and/or individuals for claims being brought relating to employment related disputes. This could include breach of contract, age, pregnancy, disability, race, religion, sex and gender or sexual orientation discrimination, unfair or wrongful dismissal, as well as failure to hire or promote individuals

Credit Insurance

Credit Insurance cover allows you to trade with confidence knowing that the risk of non-payment is covered by your insurer. Credit Insurance works on the principle of good credit management with strong credit disciplines such as regular risk reviews of credit customers, ongoing monitoring and proactive collections of late payments.

Credit Insurance can help you to:

- Grow your business
- Access more funding options
- Improve cash flow – bad debts are covered by insurers. Claims are paid quickly to replace your lost cash flow
- Collecting cash from slow payers
- Expand into new markets

What can be covered?

- Non-Cancellable credit limits – where underwriting allows
- Whole Turnover – All credit sales are included
- Single Customer Insurance
- Multi Debtor – A selection of buyers can be covered

Health and Protection

The real risk of not protecting a small business

Small to medium-sized businesses face the most challenges when it comes to handling health issues among their people. If one person is off long-term sick, waiting for a hospital appointment or an operation, it can put added pressure on the rest of the workforce, causing stress all round.

Most business owners will take the necessary precautions to protect their company and its assets against theft, damage to property, equipment and stock. However, many fail to protect their most important resource – the people they employ.

If you rely on a small leadership team to run and manage your company, what would happen if the owner or another key person in the business were to suddenly fall ill and be unable to work, or pass away unexpectedly? Would your business continue to run?

Key Person Cover

As one of your biggest resources, the consequences of losing a key member of your team could be dramatic. Profits could fall, loans may need to be repaid at short notice, at worst, the future of your business could come under threat.

Key person cover is designed to help protect your business in the event of death or severe illness of one or more key employees. If your key employee dies or becomes seriously ill, the policy pays out a lump sum to make up for any loss in your revenue or profits, helping to keep your business on track.

Why do you need Key Person Cover?

It's important to carry out an assessment within your company to clearly identify who those key members of your team might be. Think about the skills and knowledge that would be lost if they were no longer able to work?

It's also important to think about how long it might take to replace a senior level person and what that recruitment campaign might cost, as this will all have an impact on your business. If a team member has all the relationships with your clients, and they pass away, could that see clients leaving the company potentially? All of these are risks which can be overlooked when thinking about the right level of business insurance.

However, losing a key person can be disastrous for the long-term survival of a business, large or small, but having the right cover in place can help. Key person insurance can protect against unexpected costs, helping the business to continue to run while you work out what to do next.

What does Key Person Cover provide?

It is designed to help protect the business in the event of the death or severe illness of one or more key employees. If the key person were to die or suffer from a severe illness, the policy pays out a lump sum to make up for any loss in revenue or profits, helping to keep the business on track.

As well as helping to support business continuity, the money can be used to cover the costs associated with recruiting new employees or for repaying credit or loans while the company gets back on its feet.

Finding the right solution

Often, buying a group policy to protect all the people in a small company works out far more cost effective than the business owners paying out monthly premiums on personal insurances for themselves. Sometimes small businesses do not have the right number of employees to qualify for a group scheme. However, this doesn't mean that there aren't better value solutions available.

There are many options out there to provide the right levels of protection for every small to medium-sized business, to mitigate the very real risks which occur when people in the company suffer ill health or worse.

Where the care market is going – an opinion from Towergate

A softening market

During the COVID-19 pandemic, we saw many insurers and brokers within the care sector pull out of the market, as they were unable to handle the vast amount of claims and limiting cover that the pandemic created, which meant that although difficult, Towergate was one of the only brokers that was offering renewal and new business terms to care providers, as well as paying out claims.

Since then, the market has continued to grow and we are now seeing an increase in new start-up businesses, particularly in the Domiciliary Care area, as more people choose to remain in their own homes to receive care.

Once again there is more appetite from insurers and therefore, brokers are slowly seeing the benefit of providing cover for care providers. It's important when looking for a broker, you don't just go for one that seemingly has a new offering at a cheaper price; when it comes to protecting your business and staff, a broker with experience, stability and understanding is key. That way, they will understand the long-lasting impact events like the pandemic had on the sector, having experienced this with you and can provide reassurance that they won't disappear when the market gets tougher again.

Looking for signs of longevity

Working with an insurer or broker who doesn't have much experience doesn't just affect customer service, it can also have an impact on any claim you may need to make. An insurer who carries longevity in the market has access to a pot of money, saved each year for the purpose of paying claims. Without this cushion, there could be a chance that new entities end up without sufficient funds, leading to closures.

The softening and hardening of the market come and go in cycles, so you will likely see new offerings available when it is going well but be mindful that just because you can get a policy cheaper elsewhere, it's likely that the market will begin to struggle again, leading to exits from inexperienced insurance companies and brokers.

Towergate Insurance

Towergate Insurance has been working within the social care sector since 1982 and is authorised and regulated by the Financial Conduct Authority. This content has been written and approved by Towergate Insurance on behalf of Care England.

When giving comment and information on a non-specific basis, we cannot assume legal responsibility for the accuracy of any statement. In the case of specific requirements that need to be discussed, we recommend that professional advice be sought.

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