

Swine Flu Risk Management



Swine Flu is a respiratory disease and is normally found in pigs and usually contracted by people in close contact with infected animals.

Human to human transmission is rare but is the concern with the current strain recently found in Mexico. This virus is being described by the World Health Organization (WHO) as a new subtype of A/H1N1 not previously detected in pigs or humans; a mutation which may allow it to pass more easily among the human population.

WHO is currently at Level Four of its Pandemic Alert, which reflects limited infection among the human population and reported cases in multiple countries. The change to a higher phase of pandemic alert indicates that the likelihood of a pandemic has increased, but not that a pandemic is inevitable.

If it is proven that the virus is easily transmitted from human to human and WHO increases the threat level, the possibility of restrictions on travel and the passage of some goods, may ensue.

Following reports concerning the confirmed cases of Swine Flu (A/H1N1) among the human population in Mexico, Canada, the USA, UK and Spain, this Adviser outlines the risks and insurance implications for British businesses arising from a subsequent human pandemic.

Should businesses be concerned?

- Unlike Avian Flu, WHO believed that this outbreak does not pose a significant threat to livestock farmers, who were concerned by the spread of disease by migratory birds.
- The psychological impact could still be widespread. In Mexico, 70% of restaurants and bars are closed, public events are cancelled, and many people are staying at home and away from work, rather than travelling.
- The travel and tourism industries are likely to be adversely affected by falling passenger numbers, if tourists choose to stay at home or change their travel. Countries such as the UK, France and Germany are now advising against all but essential travel to Mexico.
- Supply chains may be affected if the virus spreads, particularly where suppliers are from countries with denser populations and more restricted access to healthcare.

Business continuity management implications

While many firms in the UK have business continuity plans to deal with a wide range of potential disruptions, they may not be adequately prepared for a pandemic.

A human pandemic could escalate quickly, last for many months, and infect 25% or more of the world's population, according to public health experts. Many organisations believe that at the peak of a severe pandemic, up to 75% of the workforce may be absent from work.

To address this risk, firms need to monitor the situation very closely, paying particular attention to government advice, and examine and possibly amend their existing business continuity plans accordingly.

Marsh recommends that management should review their firm's risk management controls, human resource policies, and communications capabilities, and update them based on the threat of a pandemic, as such an event could mean having fewer people, losing certain critical people, or having staff work from home or other remote locations.

In Marsh's opinion, the key points for businesses to immediately consider are:

- Ensure Business Continuity Management (BCM) plans include pandemic scenarios and exercise the plans where possible;
- Review company travel policies, hygiene policies and policies on anti-virals and healthcare support;
- In highly populated areas, make sure the BCM plans allow for staff to work at home where appropriate;
- Consider if there are any vital processes that must be maintained in a pandemic e.g. call centres, health services, and services vital to the vulnerable; and
- Decide what other core functions you want to make sure keep running if short staffed.

The main thrust of pandemic preparedness planning for businesses should be to reduce the peaks of absenteeism. In the event that WHO raises the threat to Level Six (widespread human infection) firms need to have a plan covering:

- Crisis management tailored to an epidemic;
- A alternative workforce or work-at-home arrangements in the event that a large portion of the workforce is impacted by pandemic;
- Special precautions to assess the health of the workforce and potentially turn back infected workers who report for work;
- The emotional impacts of such events as death on the individual's family and workforce in general;
- Reduced service delivery based on reductions of customer demand, labour force, raw material supply or energy resources; and
- Working collaboratively with third party suppliers to maintain critical business services.

Insurance implications

The outbreak of Swine Flu among the UK population will undoubtedly have an impact on businesses' insurance programmes, regardless of size or sector.

Below is an outline of the main types of insurance, the potential impact of an outbreak on coverage and recommendations to address the issue.

Employers' Liability

Employers' Liability policies for £5m for each occurrence are compulsory for the vast majority of UK businesses and should not contain any exclusion or limitation, at least for this amount, that will prevent a claim from an infected employee being dealt with under the terms of the insurance.

Should it become necessary, this type of policy would respond to employee claims for Swine Flu in the same way as any other infectious disease, provided legal liability is established, for bodily injury, death, disease or illness sustained by an employee within the territorial limits of the policy and caused during the period of insurance. No exclusions are permitted by law for the first £5m of each occurrence.

Public and Products Liability

The Public and Products Liability policy provides coverage against liability for injury, material damage or limited financial losses of third parties that result from the acts or neglect of the insured. This type of policy is held by almost all businesses and insurers are not, currently, imposing any specific Swine Flu exclusions.

However, for both Employers' and Public/Products Liability, these policies will only respond where there is a legal liability on the part of the insured, subject to the other policy terms. Where a business is directly involved in the handling, processing or transport of any animal stocks, the ability to establish that such a liability exists becomes more likely, and the implementation of reasonable risk control measures to protect employees or others will be critical to the defence of any such liability claim.

Environmental Impairment Liability (EIL) Coverage

Some insureds may also have separate and distinct coverage, under an EIL policy, for injury or damage arising out of pollution or contamination. These policies may contain restrictive provisions that will be invoked by insurers in response to claims for property damage or injury arising out of contamination by viruses.

Business Travel Insurance

Companies should check the specific cover, terms and conditions of their business travel policies in relation to cancellation of foreign travel.

Property Insurance

There is risk of interruption to the business in certain circumstances. For example if media suggest employees “avoid travel into particular affected areas” or suggest that employees “stay at home” disruption to travel services might also disrupt business.

There could also be more direct effects due to an incident occurring at or near the vicinity of the insured’s premises, thereby causing either absences through fear (of employees) or loss of attraction (of customers) or even the physical intervention of a competent local/civil authority ordering closure of insured’s premises.

There may also be costs incurred in “cleaning” an affected area of the premises of some organism that may give rise to the disease.

So how might a Property Damage and Business Interruption policy respond?

1. A standard Business Interruption trigger requires that interruption to the business must be caused by damage (often described in policy triggers as “physical damage”) to property (used by the Insured) at the insured’s premises.
2. In respect of any actual incident or discovery of organism on the premises, insurers would argue that the presence of Swine Flu on the premises does not constitute “physical damage” (or even “damage”) to property under the policy.

The obvious focus for consideration of any valid cover for business interruption is the general availability in the UK marketplace of an extension of cover for “Infectious Diseases”. This is an extension wording that grants cover typically for a three-month Indemnity Period and for sub-limits in the range of £0.5m to £5m. However cover under this extension is more likely than not to be compromised by commonly imposed insurer restrictions limiting cover to an incident on the insured’s premises only and/or to it being an event that must be notifiable by order to a competent authority. It is not currently the case that an outbreak of a human strain of Swine Flu is notifiable.

Cancellation and Abandonment

Policies placed before the Swine Flu risk was deemed to be a threat will not have a Swine Flu exclusion. This means that any claims due to events cancelled as a result of Swine Flu will be paid, providing that the cancellation of the event is deemed necessary and beyond the control of the Insured.

In practice this means that Swine Flu must make it impossible for the event organiser to continue staging the event. Examples of this include: the conference centre/venue being closed due to Swine Flu, and movement or travel being prohibited or severely restricted within the area where the event is being held.

Cancellation and abandonment policies do not cover claims as a result of disinclination or reduced attendance. However, advice given by the World Health Organization not to travel to a certain country or area has been deemed to be a valid trigger for necessary cancellation. Where applicable, insurers will want the Insured to reschedule the events to a later date rather than cancel. This is in some cases proving difficult due to the uncertainty of when the Swine Flu risk will be over.

More information

For further information on how Marsh is advising clients on the risk implications arising from Swine Flu, please contact your local client executive.

Sources of additional information:

World Health Organization
<http://www.who.int/en/>

Health Protection Agency
<http://www.hpa.org.uk/>

Foreign and Common Office Travel Advice
<http://www.fco.gov.uk/en/>

Department of Health
<http://www.dh.gov.uk/en/index.htm>

The information contained in this publication provides only a general overview of subjects covered, is not intended to be taken as advice regarding any individual situation and should not be relied upon as such. Insureds should consult their insurance and legal advisors regarding specific coverage issues.

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