

Covernotes

creative risk
solutions Business & Media Insurance Specialists

Massive increase in injury claims payments caused by tiny changes in Ogden “Discount” Rate

Changes to the way lump sum payments are calculated means personal injury claimants will now receive much larger amounts, which we expect will be a major factor in causing insurance premiums to rise. Here, we explain the recent change to the Ogden “Discount” Rate and how it may affect you.

The Ogden “Discount” Rate refers to a calculation applied to lump sum payments made to victims of personal injury or fatal accident caused by medical negligence, car crashes and other incidents. When a claimant is awarded compensation, the amount they receive is adjusted according to the amount of interest they can expect to accrue if investing it.

In February, the Lord Chancellor, Liz Truss, announced the rate would be cut from 2.5% to -0.75%, (an actual increase of 3.25%) a move that shocked many in the insurance industry.

Russell Corbould-Warren, Head of Technical Underwriting

at Zurich Municipal commented: “... a drop to -0.75% was significantly further than we had anticipated. Even a small difference in the discount rate will make a significant difference for claimants, customers and insurers.”

The new rate applies to all claims settled after 20 March 2017 and is already starting to have an impact. The reserve for a recent private motor personal injury claim of £9m had to be increased to £22m following the Ogden rate change, and the award made to a seven-year old boy who suffered a catastrophic injury to his spine rose from £10m to £22.7m.

As a result of the rate change, insurers are revisiting rating structures and applying increases, with larger rises applying to more susceptible risks. It is estimated comprehensive car insurance premiums will rise by £50 - £75, with young drivers facing possible increases of up to £1,000 and drivers over 65 facing rises of up to £300.

Continued from front page

AXA estimate the overall additional cost to insurers for current claims will be £7bn, and thereafter £1.2bn annually. RSA say motor rates will rise by 10% overall, and liability rates by 6 - 7%, which will affect small businesses.

With higher premiums also compounded by the doubling of Insurance Premium Tax to 12% in the last 18 months, it means businesses are currently facing a 'perfect storm' of price increases.

As your broker, we can advise on how Ogden may affect your business. We have access to a number of products and markets that will give a choice of cover to suit your needs. Importantly the sooner you talk to us the more time we will have to tailor a proposal to cover all your risk needs.

In particular we suggest you review and adopt the most robust risk management culture possible. This may involve maintaining appropriate records and a procedure, recording meetings and decisions, ensuring personal protection equipment (PPE) is used where necessary and that access to premises is appropriately managed and controlled. Such a good risk management approach will protect and minimise the probability of a serious claim occurring, thus ensuring the best possible terms can be negotiated with underwriters.

Because of Ogden, premium increases for many seem unavoidable, but we will always work on your behalf to secure the optimum value in terms of coverage, quality of service and price.

Sources:

Willis Towers Watson Networks Ogden Webinar slides

AXA's response to Discount Rate Changes

Opinion: Tim Holliday on the effects of the Ogden rate change

Ogden hits Aviva UK COR by Sian Barton

'NHS face £1bn annual bill' article

BIBA 'Damages Discount Rate Consultation' letter <http://newsandviews.zurich.co.uk/talking-point/ogden-rate-cut-means-local-authorities/>



Protecting your business against cyber-attacks

In May 2017, "WannaCry" ransomware reportedly hit over 200,000 computers in 150 countries, affecting many NHS Trusts in the UK.

Operations and appointments were cancelled and ambulances diverted as up to 40 hospital trusts became infected by a 'ransomware' attack demanding payment to regain access to vital medical records. So what is the reality of a cyber-attack and how can you protect yourself against this growing threat?

It happened because the ransomware was able to exploit a weakness in the Microsoft Windows operating system. Back in March, Microsoft released a patch to protect against this vulnerability, but not all users updated their computers.

Users opened infected email messages, enabling "WannaCry" to encrypt files on the target computer. A ransom, payable in Bitcoin, was demanded to unlock the files. Typically, this was around £230, with three days to pay, before the ransom doubled. If not paid within seven days, the files were unrecoverable.

Although ransom demands are often small, the interruption to business can produce sizeable losses, especially if occurring during peak trading periods. For hackers, it can be very lucrative given the high frequency of attacks.

Demonstrating the increasing frequency of cyber-attacks, “NotPetya” was released at the end of June, seemingly from the Ukraine. This virus quickly spread across the world in a similar fashion to “WannaCry”, locking infected systems with a ransomware demand to be paid in Bitcoin.

One particular ransomware, known as “CryptoWall”, is estimated to have earned hackers \$325m over the past three years.

Anyone who uses a computer, the Internet, and/or processes payment card information is under threat from cyber-attack.

The following basic safeguards will help minimise the risk:

- ensure your IT operating system is up to date, and any new patches fully installed
- use commercially licensed anti-virus software and firewalls
- do not open unexpected emails or attachments
- back up files regularly
- train staff in cyber safety – you’re only as strong as your weakest link.

You may also want to consider Cyber Essentials, a Government backed scheme aimed at enabling companies to demonstrate their commitment to cyber security via a verified self-assessment process. The certification is widely recognized in the UK and has been designed in consultation with the SME business sector. The Federation of Small Business says that two-thirds of small firms have been victim of a cyber-attack in the last two years with the average cost of an attack being £3,000. Cyber Essentials may help you ensure your business is not one of them.

As a member of Willis Towers Watson Networks, we have access to AIG’s “CyberEdge” insurance, one of the most comprehensive cyber risk policies available. If your first line of defence is breached, “CyberEdge” is designed to help you manage and control the impact and get “back to business” as usual.

Designed to help safeguard your business, “CyberEdge” provides access to independent experts, including forensic, legal and communications specialists, and covers you against sensitive data breaches, computer hacking, dumpster diving, computer viruses, employee sabotage or error, pilferage of information and identity theft. Cover also includes ransom negotiation, data restoration, reimbursement of ransom and advice on mitigating reputational damage.



In a changing world where cyber criminals can affect your business we can provide you with appropriate Cyber Insurance and advice. To learn more about how to protect to your business, contact us today.

Sources:
Cyber Awareness, RSA; AIG CyberEdge; AIG Claims Intelligence 'Behind The Numbers'; <http://www.telegraph.co.uk/news/2017/05/12/nhs-hit-major-cyber-attack-hackers-demanding-ransom/>

Why all businesses need to be aware of new data protection regulation

A new data privacy law, the General Data Protection Regulation (GDPR), comes into force in May 2018, overhauling current data protection legislation. Here, we explain why all businesses need to take notice.

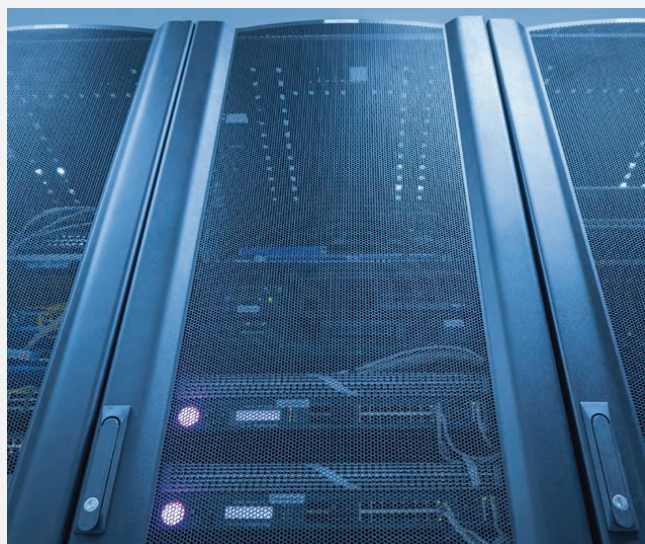
The General Data Protection Regulation (GDPR) increases consumer rights over the way their data is collected, maintained and shared. It must be met by anyone handling personal data of EU citizens, and no business is exempt.

Personal data refers to 'anything, from a name, a home address, a photo, an email address, bank details, medical information or a computer's IP address'.

If you handle EU citizen data, you will need to show compliance to the new regulation, ideally by having someone in your business responsible for data protection and ensuring you gain a customer's consent before using their data (using the 'opt in' rather than current 'opt out' mechanism).

Given the obligation to notify within such a reduced time frame, and failure to comply with GDPR resulting in a hefty fine - up to 4% of global annual turnover up to a maximum of €20m – businesses need to think carefully about how they hold and manage personal data.

You will also need to have an action plan in case of a data breach. This will involve notifying customers and reporting the incident to the Information Commissioner's Office (ICO) within 72 hours. This is a short amount of time, given that you will need to both determine the extent of the problem and communicate with affected customers within this time frame.



Your preparation for the impact of GDPR should be underway; whatever the size of your business. Here are 12 steps to help you get ready for one of the biggest changes in data regulation for many years.

1. Awareness – Ensure key people and decision makers are aware of the impact this is likely to have.
2. Document the information you should hold, where it came from and how you used it. Create an information audit if you need to.
3. Communicate your privacy notices and update if necessary in readiness for the implementation of GDPR.
4. Check your procedures to cover the rights of individual's data, including how you delete records and how you transmit data.
5. Plan who has access to data records and who has the ability to amend and update records when required. This ensures a transparent audit trail of who is using the data and for what purpose.
6. Confirm the legal basis you have for using the data you hold and document it.
7. Review the way you obtain data with particular regards to obtaining and recording consent to use it from the individual.
8. Plan how you verify ages of individuals when data gathering to ensure if dealing with minors parental/ guardian consent is obtained and recorded.
9. Ensure you have procedures in place to detect, investigate, and report a personal data breach.
10. Use the guidance of Privacy Impact Assessments to understand how to implement them within your business.
11. Designate a Data Protection Officer, if necessary. This must be a responsible person as the role should sit within your company governance arrangements.
12. If you deal internationally, you will need to determine which data protection supervisory authority you come under.

Obviously, full compliance with the new regulation will help mitigate your risks and appear favourably to underwriters. Our advice to businesses is act now - ensure you are ready to comply with GDPR when it comes into force in 2018.

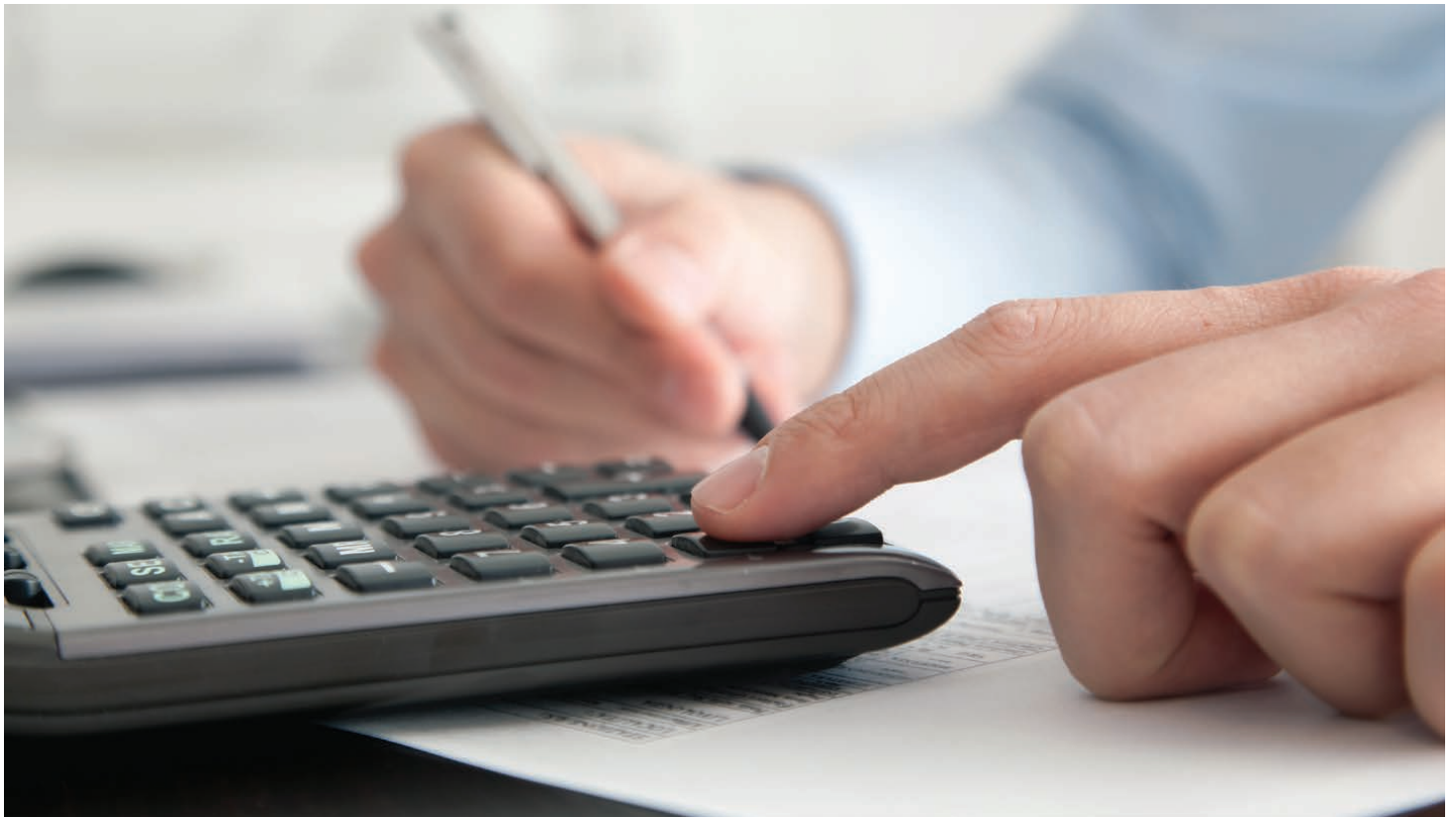
Source:

<http://smallbusiness.co.uk/cyber-security-hygiene-2538146/> - Why SMEs need to be aware of GDPR.

<https://doorda.com/lugus/smes-exposure-gdpr/> - The Risks to SME's and Those Who Insure Them.

<https://www.hiscox.co.uk/business-blog/every-small-business-must-know-gdpr-new-data-privacy-law/> What every small business must know about GDPR – the new data privacy law.

Preparing for the GDPR – Information Commissioner' Office – www.ICO.ORG.uk



Businesses face a new under-insurance risk...

Recent changes to the Ogden Discount Rate will see personal injury claimants receiving larger lump sums. As a result, businesses need to review their current indemnity limits on Public Liability cover, or risk being under-insured.

The following example explains why. A Public Liability claim was made recently against an SME covered by an Employers/ Public Liability policy with a £10m limit. Using the revised Ogden Discount Rate, the original £8m reserve was increased to £15m, leaving the insured exposed to an additional £5m on top of their policy excess.

In the underwriters opinion, if the claim settled anywhere near the reserve, the insured would be unable to pay the extra £5m. They would have to sell assets to meet as much of the claim as possible, potentially pushing them into insolvency unless other finance could be arranged.

While claimants should get a fair settlement of claims following an injury, the rate change has significant implications in terms of cost and affordability of insurance. It applies to all claims settled on or after 20 March 2017 and will have an impact on the cost of future settled claims, which will be reflected in future casualty and motor premiums.

Robust risk management will certainly help to reduce the likelihood of catastrophic claims, but businesses should review their limits of indemnity to ensure they adequately cover the exposure of the Ogden Rate.

As an insurance broker, we cannot urge our clients strongly enough to look at their limits of indemnity and see if there is a shortfall. Many insurers are able to offer higher limits or, if needed, additional layers of cover can be purchased, to ensure full protection in the event of a claim.

The CBI has voiced its concern over companies being underinsured following the Discount Rate change.

If you are unsure about the effects of the new Ogden Discount Rate and how it may affect you, talk to us today so we can ascertain whether you need to increase indemnity limits on your liability cover. It is not too far-fetched to suggest that your business could potentially be at stake if you don't.

Sources:

<https://insider.zurich.co.uk/app/uploads/2017/05/Excess-Layers-Claims-Guide.pdf>
<http://newsandviews.zurich.co.uk/talking-point/ogden-rate-cut-means-local-authorities>
BIBA 'Damages Discount Rate Consultation' letter http://www.insuranceage.co.uk/broker/3058381/brokers-warned-of-the-dangers-of-underinsurance-following-ogden-change?utm_medium=email&utm_campaign=IA.Breakfast_Briefing.DU.A.M-F0830&utm_source=IA.DCM.Editors_Updates



Personal accident and business travel – essential cover for SMEs

Interruption to your workforce, whether through travel disruption, injury or death, could result in significant financial loss, which is why Personal Accident and Business Travel Insurance are essential for today's SMEs.

As a small business, wage roll is probably your biggest expenditure and employees your most valuable resource. Although businesses insure physical assets, such as equipment, stock and cars, many fail to adequately protect their human resources, which can prove detrimental. Unlike a larger company, an SME is particularly vulnerable to business interruption if a key employee is unable to do their job.

Personal Accident cover can offset lost revenue or cover additional expenses, such as recruitment or extra staffing charges. Business Travel Insurance covers major expenses if something goes wrong on a business trip and should be taken out as a minimum standard. It also demonstrates a commitment to health & safety, satisfying your duty of care to your employees.

With random terrorist activities on the increase across the world, your policy should also provide cover against flight delays, lost luggage, medical treatment and emergency assistance occurring as a result of terrorism.

Some SME's rely on their employees' personal policies, but this cover is often limited and can exclude business travel. It also risks your business reputation, as demonstrated by a case in Autumn 2016, when a lorry driver died in his cab while abroad. His employer collected the vehicle, but told his family it would cost them £22,000 to repatriate his body. It was widely publicised and caused the haulage firm significant reputational damage, which could have easily been avoided if they had held Business Travel Insurance.

We can work with you to ensure you have the right policy in place.

<https://insider.zurich.co.uk/expert-view/guide-selling-accident-business-travel-cover/>
'Are travel insurers keeping pace with global terrorism?' By Will Kirkman. https://www.zurich.co.uk/internet/home/sitecollectiondocuments/sme/44034_zurich_sme_interactive_pdf_external.pdf ;



Planning an event this summer? Make sure you are insured.

Summer is a time of festivals, fetes and fun. But given that you are dealing with members of the public, the British weather and other potential unforeseen events, it is essential to make sure you are adequately insured.

Whether you are staging a sporting event, charity fundraiser or village fete, whether it's large or small, indoor or outdoor, whether it is not-for-profit or business, you need to plan for all eventualities.

Ensuring the safety of all those participating and attending has to be a priority, but there are also many other factors to consider. What if there is bad weather on the day? What if attendance is reduced due to a transport problem? What if the event is disrupted, causing you financial loss? What if a supplier lets you down? Can you insure against lack of interest or poor ticket sales? What if you need to cancel?

You can be sure not everything will run like clockwork and you need to prepare for the unexpected. What if hire equipment gets damaged? Can you arrange cover for antiques and collectibles? Can you insure revenue from a charity event? What about property insurance? What about transport on the day? Can volunteers drive a minibus or do you need special insurance? What if you have booked a guest speaker, or advertised a celebrity attending and they do not turn-up, especially if you have paid deposit, or in full beforehand?

Then there is the threat of terrorism. Given recent events, we know this is a real concern. What if the event is cancelled due to a terrorist threat? Can you insure against cancellation due to terrorism?

Whether you are organising a concert, conference or craft exhibition... a fete, fun-run or fund-raiser, we can arrange tailored cover giving you full protection.

The good news is we can advise on all the above. We have many years' experience arranging event insurance and dealing with all the top insurers. We can tailor a policy to your exact requirements, ensuring you are covered for just about any scenario.

We can explain the different liabilities, how to calculate an insurable sum, any restrictions and exclusions, and what to do in the event of a claim. Whatever the event, simply give us a call and we will do the rest, leaving you free to concentrate on organising the event and making it a success!

Sources:
<https://www.hiscox.co.uk/event-insurance>
<https://www.ansvar.co.uk/ourproducts/connect/pages/special-event.aspx>
<http://xlcatlin.com/insurance/insurance-coverage/specialty-insurance/contingency>

Jan Wilkins
Creative Risk Solutions Limited
Pod 1 Capital Shopping Park
Leckwith Road
Cardiff, CF11 8EG

Tel: 029 2082 2600
jwilkins@creativerisksolutions.co.uk

www.creativerisksolutions.co.uk

Authorised and regulated by the Financial Conduct Authority.

This newsletter offers a general overview of its subject matter. It does not necessarily address every aspect of its subject or every product available in the market. It is not intended to be, and should not be, used to replace specific advice relating to individual situations and we do not offer, and this should not be seen as, legal, accounting or tax advice. If you intend to take any action or make any decision on the basis of the content of this publication you should first seek specific advice from an appropriate professional.

Some of the information in this publication may be compiled from third party sources we consider to be reliable, however we do not guarantee and are not responsible for the accuracy of such. The views expressed are not necessarily those of Willis Towers Watson Networks or Willis Limited. Copyright Willis Limited 2017. All rights reserved.

FP2269