

Avian flu

Introduction

The potential for loss arising from avian flu cannot be overestimated. Marsh has been considering the unique problems arising from a global disease pandemic for some time.

This Adviser provides a brief summary some of the business risks arising from such a pandemic and the options to mitigate the risks including the important business continuity planning and insurance cover that may be available under current policies.



Business continuity

To understand the business continuity implications, it is necessary to understand avian flu in the context of previous recorded outbreaks.

Avian flu

The avian flu virus, then known as 'fowl plague', was first officially recorded in Italy in 1878. Since that time, there have been numerous outbreaks of avian flu, with the last in the UK happening in 1991/92, but these outbreaks, spread by birds and usually deadly to farmed poultry, have rarely infected humans. This strain of avian flu (H5N1), expected to arrive in the UK at any time, is unusual in that it can cross species and London insurers have, due to the large values involved, excluded avian flu from the insurance cover on thoroughbred horses. Animal to human infection is still relatively rare and the World Health Organisation statistics dated 6 March 2006 record 175 infections including 95 fatalities worldwide

since 2003. The concern is that H5N1 (which is not an airborne pathogen) will mutate to a human-to-human airborne pathogen. This will create the potential for a new virus against which humans will have little resistance with the resultant pandemic that is causing so much concern, but this will be a different disease with different characteristics to the H5N1 virus.

Business Continuity/ Human Resources

Many businesses, particularly large multinational corporations, have established avian flu/pandemic planning committees. According to media reports, some are creating task forces combining their strategic planning, operations-continuity procedures, human resources, and health services to adopt event-specific measures in anticipation of an avian flu pandemic.



An outbreak of avian flu will severely test even the best-laid business-continuity plans, and businesses are well-advised to review and revise their plans in the light of this threat. In theory, business-continuity management (BCM) should already be in place to identify, respond to, and recover from a broad range of potential interruptions. Pandemic influenza, however, isn't a 'normal' business risk. Some of a pandemic's unique characteristics include:

- an international impact with no demarcation by culture, industry, or geography
- the potential to escalate quickly and last for many months
- a projected infection rate of 25 percent or more of the world's population, according to many public health experts
- extreme taxation of health care facilities, public health agencies, and their work forces; and
- a macro impact on regional and global economies that could result in a significant shift in the way that companies conduct their businesses and their ability to continue operations.

If avian flu does not mutate to a human-to-human airborne epidemic, the time spent on planning and preparation will not have been wasted. After all, this potential disease is a good proxy for other potential pandemics; pandemics are a good proxy for potential bioterrorism; bioterrorism is a good proxy for other forms of terrorism. Corporate preparedness is a transferable skill – even if the risk emerges from a totally different direction or source than anticipated.

Marsh, and its sister companies Mercer Human Resources Consultants and Kroll, have issued a number of helpful papers to assist with the identification and, where possible, mitigation of risk arising from avian flu and any future mutation causing a virulent human-to-human contagious disease.

These papers (some of which are regularly updated and include the *Marsh avian flu online preparedness survey*) can be accessed at:

<http://www.marshriskconsulting.com>

<http://solutions.marsh.com/afpandemic/>

<http://www.mercerhr.com/avianflu>

http://www.krollworldwide.com/news/avian_flu/

The London Chamber of Commerce survey on avian flu indicated that, from the responses, a number of businesses may struggle should a human-to-human pandemic cause business disruption lasting 12 weeks:

- 20% will have insufficient working capital
- 23% unlikely to survive a loss of customers

In addition, in the event of a number of staff becoming sick at the same time:

- 22% believe that their business model will fail at an absence level at 10% to 30%
- 40% believe that their business model will fail at an absence level at 30% to 50%

30% of the respondents have updated their emergency contingency plan with 29% admitting to having no such plans

Insurances

This section of the Adviser considers some of the insurance implications. Businesses should also consider that the financial services industry, which includes insurance, will, as with all businesses, be affected by a human disease pandemic. As such, while the industry will make every effort to maintain a service, servicing delays, to a lesser or greater extent, can be expected.

Property Insurance/Business Interruption

Business Interruption exposures arising from an outbreak of avian flu, while may be negligible for some operations, could be more severe for others dependent upon the location and the type of business. Any mutation causing an outbreak of human-to-human airborne contagious disease will be severe for all businesses. Few policies will have coverage extended to include notifiable diseases, but for those that do have the extension, cover will normally be limited to human contagious disease. In the UK, currently only avian flu, (as found in birds/poultry), is notifiable as a DEFRA (Department for Environment, Food and Rural Affairs) requirement. Any human contagious variant may become notifiable as a Department of Health or Local Authority requirement if or when it is conclusively identified.

It should also be borne in mind that recent versions of the Notifiable Disease extension usually restrict cover to an outbreak at the insured premises and require closure of premises by order of a competent local authority.

Older versions still in circulation may offer non-human disease cover and have fewer limitations as to area and closure, but it can be expected that the market will be reviewing these cases and may seek to impose restrictions on human pandemic scenarios. Suppliers', Customers' and Property Stored extensions would not provide cover for an outbreak of diseases as cover is triggered by physical damage. This is also true of the majority of Denial of Access and Loss of Attraction extension wordings. It follows that most policies will not provide cover for losses arising from this disease and those that may currently provide some limited indemnity could have future restrictions imposed by the insurer.

Employers' Liability Insurance

There should be no exclusions or limitations under an Employers' Liability (EL) policy which means that the insurer will deal with any claims that may arise. It is most unlikely that there will be a legal liability on an employer if staff are infected, although employers will need to ensure that premises are free from bird or vermin infestation.

However, some rural businesses such as farmers or any business involved with the processing or handling of poultry as well as zoos, the pet trade and some park or leisure operators could be at greater risk of claims if employees contract avian flu during course of employment. Hospital and medical centre employees could be at greater risk if H5N1 mutates to a human infectious disease. It is illegal for an insurer to impose exclusions on losses below £5m per occurrence that happen within this country and there are currently no plans for insurers to impose any limitations in the immediate future.

Public/Products Liability

As with Employers' Liability insurance, it is most unlikely that there will be a legal liability on most businesses in the event of an outbreak of avian flu or any human pandemic variant. However, some businesses or operations could be more at risk (see EL above) should they fail to take all reasonable precautions to limit or prevent any potential for disease spreading into the population. There is currently no sign of insurers considering imposing exclusions on these policies.

Business Travel Insurance

No exclusions or restrictions currently apply to business travel insurance. 'Insured Persons' falling ill while travelling abroad on business will be covered under the terms of the policy, although this could change in the event of a human flu variant pandemic. Cancellation or curtailment expenses may not necessarily apply where there is a disinclination to travel or where a government has recommended that visits to an area be avoided or where an area has been quarantined.

Group Personal Accident/Sickness

For those policyholders with a sickness extension to personal accident policy, there will, unless the extension is limited to named critical illnesses, be cover, subject to the policy terms, for illness arising from avian flu or human-to-human infectious influenza. However, it is possible that, in the event of a pandemic becoming imminent, insurers may start to impose exclusions.

Healthcare/Life/Keyman

While life policies and healthcare insurance will not have any exclusion, dependent upon the severity of a human pandemic disease, there may be an impact on future costs. Keyman insurance (a whole life/permanent disability cover taken out by a business on an individual or group of individuals considered as being essential for the business) may be a consideration for some businesses as a means to provide a financial cushion in the event of loss of key personnel. However, insurers may apply limitations should the situation deteriorate.

Cancellation and Abandonment

Cancellation and Abandonment policies currently being placed have an avian flu exclusion and it can be expected that the insurer will interpret this to include any subsequent human-to-human influenza pandemic that may arise from the avian flu virus. For those policies already operative, there may be insurance cover available if it is proved that the disease has made it impossible to stage or re-schedule the event. However, lack of attendance in itself will not give rise to a claim under the policy.

Workers' Compensation

Coverage under overseas Workers' Compensation arrangements will vary by territory but most will respond to illness contracted out of the course of employment. A recent claim in USA involved an employee contracting Histoplasmosis (a rare but serious flu/pneumonia like illness caught from infected pigeon droppings).

The local Workers' Compensation cover responded as it was demonstrated that the workplace was contaminated with infected pigeon droppings that the employer had failed to clear. By inference, if there was no pigeon infestation at the place of work, it would have been far more difficult to prove the claim.



Presumably, similar rulings will apply in this territory for avian flu outbreaks and it may be reasonable to assume will apply in other territories. In most territories, it may be difficult to demonstrate that any human-to-human infectious disease (which could be contracted anywhere) is compensational under Workers' Compensation schemes. Further questions regarding coverage should be addressed to your local Workers' Compensation provider or, if applicable, the local broker.

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.

Statements concerning legal matters should be understood to be general observations based solely on our experience as insurance brokers and risk consultants and should not be relied upon as legal advice, which we are not authorised to provide. All such matters should be reviewed with the client's own qualified legal advisors in these areas.

Conclusion

Whereas businesses are at considerable risk of loss should avian flu or a human pandemic strike, it is unlikely that there will be significant protection from conventional insurance. Loss mitigation planning is essential. For further advice on your insurance cover, loss mitigation, or if you have any questions or queries arising from this Adviser, please contact your usual Marsh representative.

Sources of additional information

World Health Organisation

<http://www.who.int/en/>

Health Protection Agency

<http://www.hpa.org.uk>

Health & Safety Executive

<http://www.hse.gov.uk>

Foreign and Commonwealth Office Travel Advice

<http://www.fco.gov.uk>

Department of Health

<http://www.dh.gov.uk>

DEFRA

<http://www.defra.gov.uk>

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