

Adviser

Avian Flu – Latest insurance and risk update

- Humans can catch Avian Flu, but only from close proximity and handling of birds. It is deadly, with >50% mortality worldwide. It is a big threat to poultry, although factory farms are well-protected, and a BSE style spread of the disease is unlikely. The outbreak in Suffolk may imply there is greater incidence of H5N1 in the wild than previously thought, and people in contact with birds should take extra care.
- Currently H5N1 is not in itself a business threat except to the poultry industry. UK businesses in the poultry industry should take it very seriously if they are not already doing so. In Marsh's experience of this sector there are already very high standards of hygiene and safety, and businesses have already planned for an outbreak of this nature.
- Pandemic flu arising from a mutation of H5N1 would be less deadly than Avian Flu, but could lead to 50% absence from work at the peak, and therefore is a major business threat. The outbreak in Suffolk makes this no more likely to happen. The required mutation is more likely to occur in parts of the world where people live in close proximity to livestock, and will spread from there.
- The time to be really concerned is when a mutation is reported that allows the virus to be transmitted from human to human. At that point it may be only a matter of weeks before it jumps continents - and is likely to lead to immediate extensive restrictions on travel, and possibly the passage of some goods. This is a real threat and businesses should take precautions.



Following the outbreak of H5N1 in the UK, this Adviser outlines the risks and insurance implications for British businesses arising from Avian Flu and a subsequent human pandemic.

Business continuity management – wildlife and poultry issues

The outbreak of H5N1 poses a major threat to the UK's poultry sector. While steps are being taken to isolate the outbreak, organisations in this sector must continue to take the threat seriously.

Organisations that deal with birds (or other livestock in close proximity to poultry) must have emergency response plans in place to identify any outbreaks and to put in place any necessary isolation and control measures to ensure the safety of staff and minimise the risk of spread.

Marsh also recommends that such organisations need to think beyond these immediate responses, and have plans in place that minimise the impact on their businesses and other businesses in their supply chains. These plans might include a controlled shut down of the business for a period.

Business continuity management – human mutation

H5N1 is still a form of Avian Flu which has not mutated into human form. While there have been cases of human infection, at this point human-to-human spread is not proven, but we believe it is prudent to prepare for a potential worst case scenario.

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, such as that associated with the possible human-to-human spread of a potential mutation of the current strain of Avian Flu.

A human pandemic could escalate quickly, last for many months, and infect 25 percent or more of the world's population, according to public health experts. Many organisations believe that at the peak of a pandemic, up to 50% of the workforce may be absent from work. To address this risk, firms may need to examine and amend their existing business continuity plans.

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 functions, or having staff work from home or other remote locations.

The main thrust of pandemic preparedness planning for businesses should be to reduce the peaks of absenteeism. The key points for businesses to consider are:

- Staff care and communication policy
- Travel restriction and quarantine policy
- Decontamination, cleaning and hygiene procedures
- Tamiflu or similar 'prophylactic' stockpiles
- Work-at-home strategy
- Key business process resilience plans
- Possible moth-balling plans for non-essential processes

In addition, businesses need to assess how a pandemic might affect services from suppliers and vendors, both domestically and overseas - in particular, in areas where incidence of the disease may be concentrated.

Insurance implications

The outbreak of the H5N1 strain of Avian Flu in the UK and possible human mutation of the virus 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 Avian 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 Avian 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 bird 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.

Property Insurance

The risk of interruption to the business is obvious if circumstances prevent employees getting to work through media advice “not to travel into particular affected area” or to “stay at home” or due to disruption to travel services.

There could also be a more direct affect 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 avian flu on the premises does not constitute “physical damage” (or even “damage”) to property under the policy.

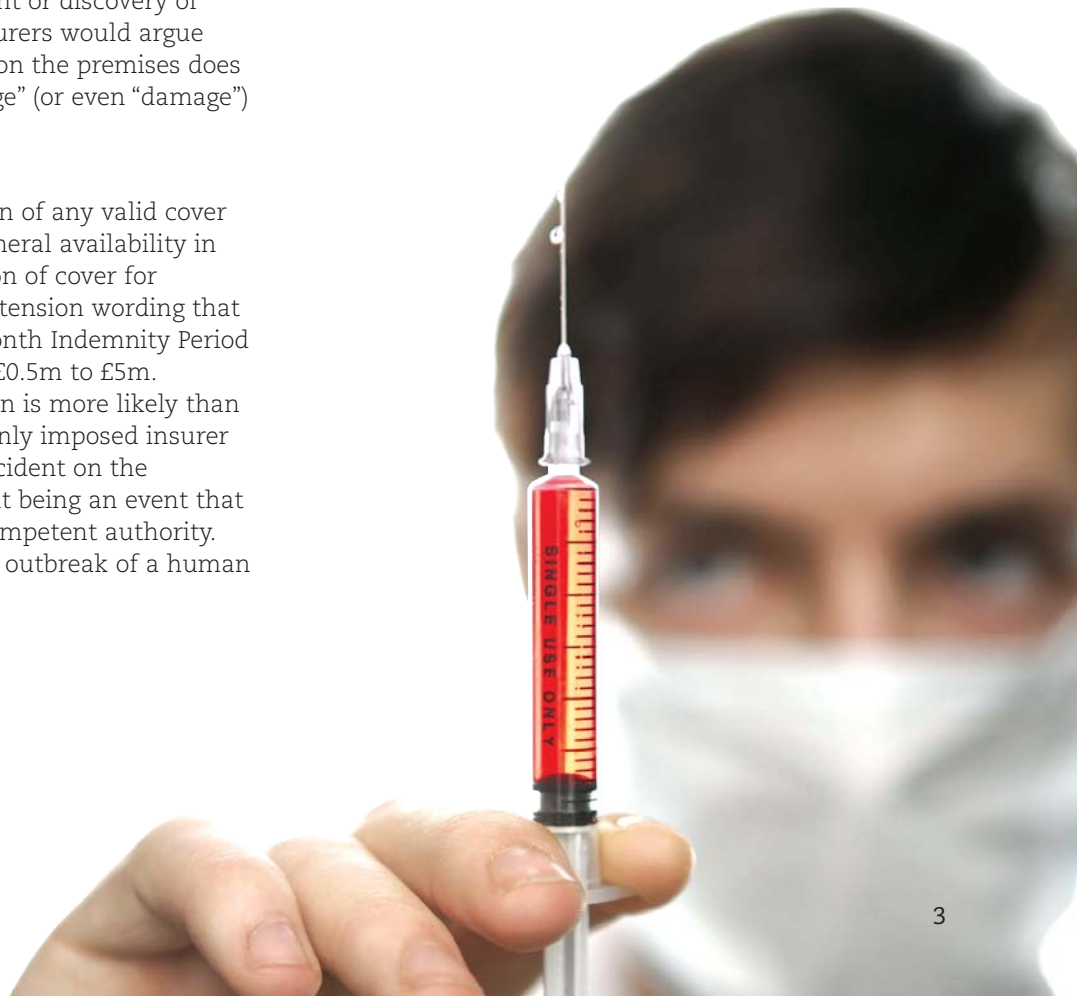
The obvious focus for consideration of any valid cover for business interruption is the general availability in the UK marketplace of an extension of cover for “Infectious Diseases”. This is an extension wording that grants cover typically for three-month Indemnity Period and for sub-limits in the range 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 Avian Flu is notifiable.

Cancellation and Abandonment

Policies placed before the Avian Flu risk was deemed to be a threat will not have an Avian Flu exclusion. This means that any claims due to events cancelled as a result of Avian 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 Avian 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 Avian 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 Organisation 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 shows to a later date rather than cancel. This is in some cases proving difficult due to the uncertainty of when the Avian Flu risk will be over.



More information

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

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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