

# insurance matters

Issue 8 - Spring/Summer 2011

INSURANCE INDUSTRY NEWS FROM GARDNERS



## Could you be guilty of bribery?

**With the newly revised 'Bribery Act 2010' coming into force on July 1st 2011, it is more important than ever that businesses are aware of what constitutes 'bribery' in the eyes of the law and the sanctions non compliance will carry.**

Whilst the Bribery Act has always existed, of late it has become increasingly clear that the boundaries are somewhat blurred resulting in calls for a new clearly defined offence of bribery.

Following a consultation period amendments have been made with the aim of clarifying matters. "We sought to make the law of bribery simpler and more appropriate to modern times and consistent with our international obligations." (The Law Commission)

The new rules are designed to be beneficial to business by limiting corruption and ensuring an all round fairer corporate environment. "Those who conduct their business ethically should not fall foul of the proposed law, while those who seek to hide their dishonest conduct by the use of third parties should not be able to do so." (Lord Woolf, former Lord Chief Justice)

Bearing this in mind it is important to be aware of the key changes. Bribing and receiving a bribe have always been integral crimes underpinning the act. However there are now two new areas which will also be covered:

- Failing to prevent bribery
- Bribing a foreign national

In accordance with the new law, businesses can be prosecuted by way of fines, not only for acts of bribery but also for failing to prevent bribery, or "turning a blind eye". This applies to bribery being committed by someone acting on behalf of the company, bribes in connection with the company's business, or someone connected with the company whose functions included preventing bribery but negligently failed to do so.

(Continued overleaf)



## Welcome

to the Spring / Summer issue of Insurance Matters

If you have any comments or requests for topics you would like to see covered in future issues, please get in touch.

## Inside this issue



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CCV Assist



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**CCV - A Powerful Ally**



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There is also a new section regarding the bribing of a foreign national which has been introduced to ensure regulations are consistent with international obligations.

However there is no need to panic as long as a company can prove it has implemented adequate procedures designed to prevent bribery.

Ultimately being aware of the tighter regulations can only be beneficial and, providing businesses have the necessary measures in place to prevent bribery, the new act will help to shape a more structured morally sound business environment.

# TAKE CARE, TAKE ADVICE

**At a time when buying cheap insurance on-line and many brokers are focussing entirely on price, we look at how a pro-active broker approach could save you and your business.**

Insurance Brokers are governed by the FSA, and a good broker will also be aware of the constant market changes and advise you how best to deal with them. You must consider, very carefully, exactly what you need to provide insurance for and, protect your business against those eventualities. It is therefore essential to provide as much information as you possibly can in order for the best advice to be provided.

So what do you need to provide cover for? It is possible to insure against most things but, the key ingredient is the expertise to ensure that the main risks are identified and the appropriate cover purchased – this is where your local broker can offer assistance. Insurance falls into two main categories; that which you must have by law and that which you should consider to protect your business.

## **Category 1 – It's the Law!**

- Employers liability
- Motor
- Contract
- Engineering

## **Category 2 – Consider these as necessary protection!**

- Material damage
- Business interruption
- Public and products liability

**CASE STUDY:** A manufacturer insured his machinery against breakdown, but not against the subsequent business interruption caused by the breakdown. When the worst happened, his insurer was quite prepared to pay for the replacement part and, had they known that it would take 18 months to replace, they would have covered his loss of profit as well. Unfortunately, the cover had not been purchased and the company ceased trading.



In addition to the above basic areas you may choose to consider the following areas; money cover (if you deal in cash transactions), goods in transit, credit insurance (if you have one large client) or professional indemnity if you are providing advice.

Turning to the question of cost, insurance premiums are invariably based upon what you do and where you do it. However, the most important criteria by which to judge the product you have purchased is performance at the time of a claim.

Should you find yourself with a claim to submit, don't delay, some policies require that claims or circumstances that might give rise to a claim are reported within limited timescales. Contact your broker for advice should you require it and follow the instructions given. It may or may not be necessary to complete a claim form dependent upon your particular insurers procedures and the type of claim in question

**Remember that cheapest is not always best.** Save money by selecting the risks which are appropriate to you or, by bearing a part of the risk yourself by way of an excess or agreeing to pay a certain percentage of each claim yourself. Spread the cost by using instalment facilities. Do not try to save money by leaving things out or understating values.

Finally, remember to insure your most important asset, the one piece of the jigsaw around which all of the other pieces fit ... YOU!

# Corporate Manslaughter update - director's risks

## Company fined £385,000 following fatal accident

**The first prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007 was finally heard by the courts in February 2011.**

This was almost three years after the Act came into force, and the conviction and level of fine against the Gloucestershire based firm Cotswold Geotechnical demonstrates the serious impact it can have on any business or its directors.

The conviction resulted from the tragic death of a geologist, who was crushed when the sides of an excavated pit collapsed on him. The corporate manslaughter prosecution brought by the HSE resulted in the firm being fined £385,000. The amount of the fine actually exceeded the company's turnover in 2007. An appeal against the judgement was dismissed by the courts in May 2011.

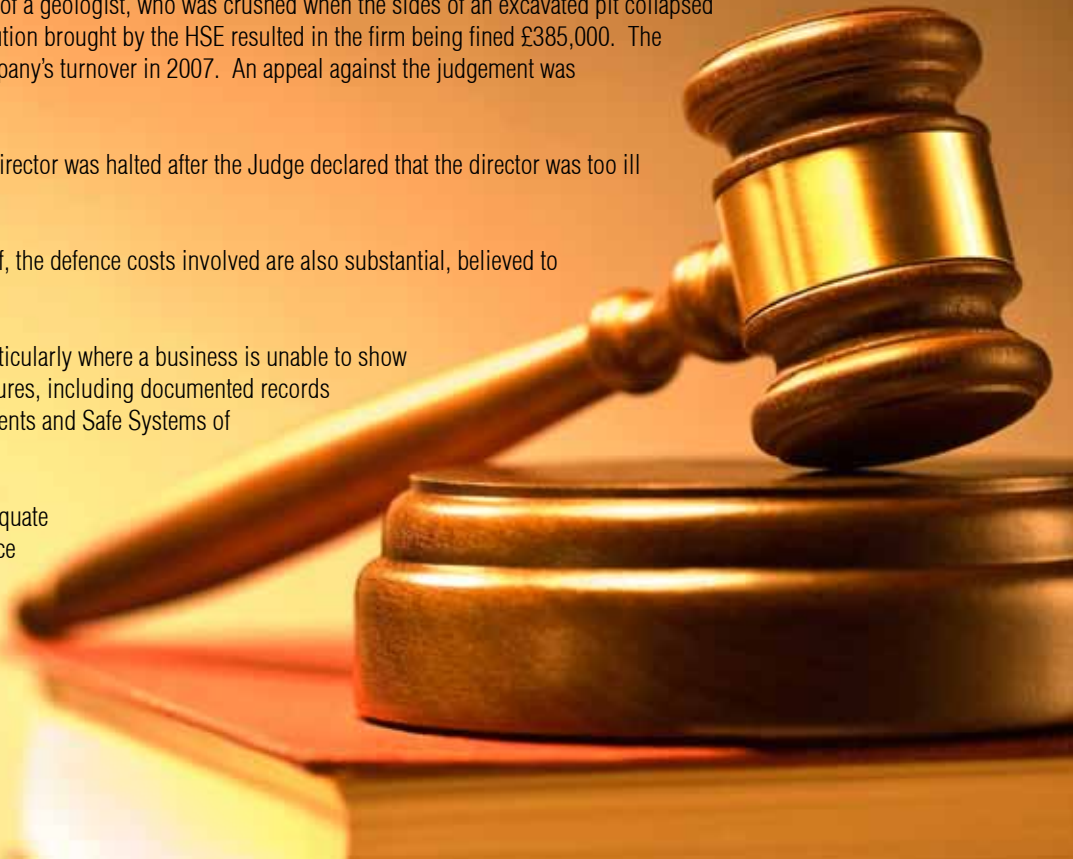
Earlier, the personal prosecution of the sole director was halted after the Judge declared that the director was too ill to stand trial.

Whilst the fine is a significant amount in itself, the defence costs involved are also substantial, believed to have been in excess of £500,000.

The case highlights the risks to directors, particularly where a business is unable to show it has adopted robust Health & Safety procedures, including documented records of all Health & Safety Training, Risk Assessments and Safe Systems of Work.

This underlines the importance of having adequate levels of cover for Directors' Liability Insurance and a Corporate Manslaughter Extension to the Employers/Public Liability policies.

Please remember that these policies can only cover Defence Costs. An insurance policy does not meet the cost of any fine, which remains to be met by the company or personally by the Directors.



## Save time and effort in your hour of need!

**Nobody enjoys making a claim, but if you have to the last thing you want is to waste valuable time and effort building your case and negotiating a settlement.**

You may be pleased to know that actually you don't have to – CCV Assist will take the stress out of your claim with their Commercial Loss Recovery Insurance providing a quick response at a time of crisis.

Commercial Loss Recovery Insurance provides and pays for a qualified independent claim expert to prepare, present and negotiate certain insurance claims with your commercial insurer. Your Claim Expert will also work with your accountants to prepare any business interruption claims and arrange remedial work and surveyors if required.

Some recent cases highlight the quality of the CCV Assist service. One instance involved the theft of plant of considerable age from a building contractor covered on an indemnity basis. Insurers initially proposed a settlement with considerable deductions for depreciation; however following CCV Assist's claim expert investigating the models of plant in question a much more favourable settlement was negotiated.

In another case involving water damage in an accountant's office CCV Assist's Claim Expert arranged the appointment of specialist damage mitigation contractors so the policyholder's staff could perform essential paperwork and maintain contact with clients. Negotiations with the insurers were entered to agree written off items ensuring their quick replacement. The prompt involvement and advice of the claim expert meant the policy holder was able to remain in occupation preventing any ongoing loss of business.

With 97% of customers believing the service is good value for money\*, what are you waiting for?

Purchase your peace of mind today by contacting us!

\*Source: CCV Assist Commercial Loss recovery leaflet

# Health & Safety: The impact of prosecution

**Protect your business from the impact of prosecution by maintaining a safe and healthy working environment for your employees.**

In a world where blame culture is rife, it is more important than ever to ensure that your business is compliant with health and Safety legislation to reduce the risk of accidents in the workplace.

Small and medium enterprises account for 82% of all occupational injuries and 90% of all fatal accidents making it likely that your business has been or may in the future be affected by a claim. (Source: www.bibbycas.com)

It is not only current employees, but former employees also can make a claim for compensation if they believe they have been injured or become ill as a result of their work whilst in the employment of a particular business.

The impact of such a claim, if successful, can be severely detrimental not just in a purely financial sense. BIBBY, an organisation specialising in health and safety consultancy state that, "a severe Health and Safety infringement could put a small company out of business, either through crippling fines, loss of personnel or customers resulting from damage to credibility".

Perhaps then, it is time to check whether your business is implementing the following appropriate measures to minimise the risk of accidents and subsequent claims:

- **Carry out suitable and sufficient risk assessments**
- **Take all possible reasonable measures to protect employees**
- **Report and record any incidents that do occur**

Assistance is also on hand in the form of BIBBY who proactively work alongside CCV companies and our clients to ensure safety in the workplace.

Just as there are sanctions for non-compliance with Health and Safety laws, there can also be many benefits for complying. These include a lower risk of expensive litigation, increased productivity, and positive public relations.

Help is out there to assist in tailoring health and safety measures to suit your business and with the many impacts prosecution can have, perhaps its time your company reviewed it's working environment.

If your business does find itself in a claims situation, the Employers Liability (Compulsory Insurance) Act 1969 ensures a minimum level of insurance cover against such claims. Bear in mind that not only does not having this type of insurance in place put you at severe risk of having to finance a claim yourself, you can also be fined up to £2500 for every day you are without suitable insurance if prosecuted by the HSE.

Keep records of all Employer Liability insurance you have held as some diseases can appear years later, and if you have no records – you risk having to meet the costs yourself.

**Get in touch with us to see how we can support you with the assistance of our risk management partners.**



## Cullum Capital Ventures (CCV)

As you may be aware we are part of Cullum Capital Ventures (CCV). CCV is one of the fastest growing insurance intermediary groups in the UK currently employing over 800 people in more than 50 locations across the UK.

This coverage enables us to offer the substantial backing of a national company coupled with local service.

**No.4** we are the fourth largest independently owned insurance intermediary group in the UK

**No.23** Insurance Times Top 50 Broker (Aug 10)

**£300 million** gross written premium controlled (run rate as of April 2011)

**60+** acquisitions successfully integrated into the group

**2** new business successfully launched

**50+** business units across the UK

**800+** people employed around the UK

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Insurance Brokers

Ford House  
31-34 Railway Street  
Chelmsford  
Essex CM1 1QS  
Telephone: 0844 980 6809  
Email: [info@gardnersinsurance.co.uk](mailto:info@gardnersinsurance.co.uk)  
Web: [www.gardnersinsurance.co.uk](http://www.gardnersinsurance.co.uk)