Care Sector and Covid-19

Accessing Public Liability and Employers' Liability Insurance

The Issue

The care sector has had to operate in challenging circumstances and adopt new ways of working to ensure that they are doing all they can reasonably do to prevent the spread of the virus.

We are aware that some care homes, domiciliary care providers and other care services may be finding it more difficult to access public liability (PL) and employers' liability (EL) cover for their needs in the current circumstances. It is also the case that the effects of the pandemic have meant that Covid-19 or broader communicable disease exclusions, and/or lower policy limits, are likely to be more commonplace.

Why might it be more difficult to obtain EL and PL cover?

In many cases, the cost of EL and PL cover for care providers was significantly under-priced due to a soft market (meaning more competition and lower prices) without the impact of the global pandemic. However, as the impacts of Covid-19 have become clear, insurers are concerned about the increasing claim frequency for EL and PL claims, heightened exposure to Covid-19 and the risks of future variants and other communicable diseases impacting the care sector.

Whilst in no way providing a guarantee that insurance will be provided, or that premiums will not be markedly different, the information below should help set out some steps that care providers can take to improve their ability to access appropriate insurance cover. This is not an exhaustive list, and care providers should discuss the required cover and actions they may need to take with an insurance broker, or directly with their insurer.

How can care providers improve their ability to access insurance cover?

Below sets out some suggested information which care providers could share with their insurer/broker to give them the best chance of securing appropriate insurance. We encourage care providers to discuss the specific evidence/information requirements directly with their broker/insurer as this may vary.

Risk Management
- Demonstrate **robust risk management processes and training in place to manage the risks** – examples may include PPE training, health and safety training, qualifications of those working at the care provider, effective business continuity plans as well as demonstrating they meet Government and regulator guidance around infection control etc.
- Maintain **detailed records** of the steps taken to ensure the safety of employees, residents and visiting public, examples may include records of cleaning processes, use of PPE, risk registers, details of the management of any previous Covid-19 cases, updating and reviewing individual care plans - especially if infection risks, personal health or care needs change.
- Create fixed working cohorts, regimes or rotas so that only the same employees interact with each other and avoid care staff moving between different care facilities and/or locations where possible.
- If possible, arrange for any employees who co-habit with 'clinically vulnerable' persons to be redeployed away from providing care services.

Sharing information

- Provide the insurer with **up-to-date Covid-19 statistics** including transparency around the number of infections, hospitalisations, deaths to date as well as levels of vaccinations for patients and employees.
- Be able to provide details of any **previous claims history** record.
- Details of any **inspections by independent health and social care regulators**, including compliance with any required changes, and steps taken to improve where required – Care Quality Commission (England), Care Inspectorate (Scotland), Care Inspectorate Wales or the Regulation and Quality Improvement Authority (Northern Ireland)
- Ensure that all employees are tested regularly; https://www.gov.uk/guidance/coronavirus-covid-19-getting-tested
- Be able to provide the following staffing information: staff turnover rates and use of agency workers, recruitment referencing, training and maintenance of records, average hourly rates of pay.
- Ensuring relevant information is produced and retained for sharing with insurers and any legal partners in the event that any claims for compensation are presented, e.g. testing records, NHS handover notes etc.
- Answer questions that come via your broker and/or insurer in order to address areas of concern. Far better to furnish with information than your insurer having to make assumptions or cease considering your particular case.

Start your renewal early and consider getting professional advice

- Be prepared to engage in the renewal process earlier than you may be used to. Three months before renewal is a good rule of thumb. Insurers may be asking additional questions or requesting completion of questionnaires, so the sooner you can engage the better.
- Using the services of a professional insurance broker to help advise you on the scope and limits of insurance that best suit your needs is a good idea. The insurance market for care providers is challenging at present and you may need to be steered through it, especially if you're expecting or experiencing problems. The broker works for you and will search the market on your behalf to find the insurer that is right for you. A broker will often help with claims preparation and discussions with the insurer following a loss.
- It is particularly important to check if your policy now carries any new exclusions or limitations with regards to communicable disease related claims. Again, a broker will be able to do this for you and discuss the implications of any cover restrictions with you.
- If you need help getting in touch with an insurance broker who can help you, try BIBA's Find Insurance Service: via **www.biba.org.uk** or call **0370 950 1790**.

Follow Guidance

- Implement the latest Government and regulator guidance and any changes to these as soon as reasonably possible and without undue delay. Discuss any concerns with being able to implement this with the insurer/broker as soon as is possible.
- Links to current Government guidance is below, but note that these may be updated regularly.

*Note: This guidance may be updated to reflect changes in Government legislation affecting the care sector.

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Links to Government Guidance:

England
- https://www.gov.uk/government/publications/covid-19-how-to-work-safely-in-care-homes
- https://www.gov.uk/government/collections/coronavirus-covid-19-social-care-guidance
- https://www.gov.uk/government/publications/coronavirus-covid-19-admission-and-care-of-people-in-care-homes
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/893739/COVID-19_Adult_Social_Care_Risk_Reduction_Framework_1.pdf

Scotland:
- https://publichealthscotland.scot/publications/covid-19-information-and-guidance-for-care-home-settings-adults-and-older-people/covid-19-information-and-guidance-for-care-home-settings-adults-and-older-people-version-24/
- https://www.gov.scot/publications/coronavirus-covid-19-guidance-on-adult-social-care-building-based-day-services/pages/infection-prevention-and-control/
- https://www.gov.scot/publications/coronavirus-covid-19-open-with-care---supporting-meaningful-contact-for-care-home-residents-at-and-after-level-0-letter-to-sector/
- https://www.gov.scot/publications/coronavirus-covid-19---open-with-care-advice-on-practicalities/pages/overview/

Wales:
- https://gov.wales/care-homes-and-social-services-coronavirus
- https://gov.wales/social-care-staff-responsibilities-and-covid-19-guidance
- https://gov.wales/guidance-providers-social-care-services-adults-during-covid-19-pandemic-0
- https://phw.nhs.wales/topics/latest-information-on-novel-coronavirus-covid-19/information-for-health-and-social-care/

Northern Ireland:
- https://www.health-ni.gov.uk/publications/covid-19-guidance-nursing-and-residential-care-homes-northern-ireland
- http://www.hscboard.hscni.net/coronavirus/covid-19-care-homes/

*Note: Government Guidance may be updated regularly