



# Covernotes

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## The insurance implications of Britain becoming a nation of fly-tippers

**Britain's landscape is becoming increasingly tainted by the blight of fly-tipping – an escalating issue which puts farmers and private landowners under particular strain and which has the potential to bring about their financial ruin.**

In June 2017, a House of Commons briefing paper recognised the scale of the criminal activity surrounding the illegal disposal of household, industrial, commercial and other 'controlled' waste, by those without a Waste Management Licence. Materials dumped often include asbestos, solvents, oil, fridges, highly combustible materials and tyres, and the practise of fly-tipping is often carried out by organised criminal gangs.

Although penalties can be applied under Section 33 of the Environmental Protection Act 1990, under the terms of which the courts have the right to impose a prison sentence of up to five years, street-wise fly-tippers are often never caught.

Alarm bells should sound for private landowners, as the law makes it crystal clear that the responsibility for the 'clean-up' of fly-tipped waste, and the cost of that exercise, lies at their door. Councils will not clear land free-of-charge, which results in heavy expenses for the private landowners left to deal with the problem and to foot the bill. Reimbursement would only come about if the guilty party were caught and prosecuted and, even then, exacting the full costs from the offenders could be difficult.

Should the dumped waste contain pollutants which seep into the ground, the clean-up operation could well go beyond the means of the individual landowner, potentially bringing about financial ruin.

The cost of removing fly-tipped waste is already believed to cost Britain's private landowners £50m to £150m a year. Any area of accessible land could be chosen as a dumping ground for waste and those obliged to provide access, under the Countryside & Rights of Way Act 2000, are particularly vulnerable.

High-risk sites are also those which are disused or home to vacant warehouses. Others are chosen because previously dumped waste has not been removed, or because factors such as graffiti and ill-repair make the site seem a justifiable target for fly-tippers.

Accompanying fly-tipping come trespass, vandalism and illegal squatting, potentially bring more problems for any landowner. Under the Defective Premises Act 1972, and the Occupiers Liability Act 1984, property owners have a duty of care to protect anyone who enters a vacant building. Should the intruder or legitimate visitor suffer an injury, the landowner could be held responsible.

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Whilst this situation should spur all private landowners into securing sites with locks, physical barriers, CCTV and even security patrols, they would also be well-advised to examine their property insurance policy and assess what protection it provides, if any, to mitigate the costs of dealing with fly-tipped waste.

Such protection would typically be an extension to a property insurance policy. Other extensions could cover the eviction of any unauthorised occupants, and/or reimbursement of the security costs incurred when trying to secure a site temporarily, following damage.

The landowner whose business relies on having access to their site and buildings, should also ensure they have business

interruption cover, whilst those who feel particularly vulnerable could enquire about Environment Impairment Liability protection. The latter could pick up some of the cost of a pollutant clean-up that involves the Environment Agency, but even this protection tends to cover only buildings, rather than offering reimbursement for costs that relate to land and water pollution.

If you are a private landowner, it would pay for you to discuss this. So, please get in touch with us and help us to guide you through the different options available.

Sources:  
<http://www.tacklingflytipping.com/landowners/1500>

## Data keeping drivers safe on the road by getting to know their good and bad habits

**Serious motor incidents involving HGV drivers always make the headlines, whilst a company car driver who carries out a motoring misdemeanour that negatively affects other road users can bring instant shame on the company name. A few years ago, preventing eventualities like this, which could conceivably have been avoided, would have seemed an impossibility in many cases. In the new digital age however, there are solutions that can help mitigate such risk.**

There are now many tools that are adding value by analysing driver behaviour on the road, checking licences and the number of points accumulated, noting the severity and type of offence and logging types of incident in which drivers had previously been involved.

Such tools can tell the fleet manager when a pool vehicle was reassigned and to whom, but also, crucially conduct a driver analysis, using a series of inter-locking scores covering various different areas of safety on the road. This generates a 'risk factor' for each individual driver, highlighting the areas in which a driver needs to be trained, or have their awareness of road safety enhanced.

Then, to complete the process, it will intelligently suggest what sort of help a driver requires, be that the completion of e-learning modules, a safe driving course, additional coaching, or a behavioural workshop.

Getting to know drivers in this way, with the assistance of advanced software, can literally be a life-saver. It can reduce both the danger posed by individual drivers within a fleet each time they take to the road and the possibilities of reputational damage. It can potentially also avoid the company incurring heavy fines or criminal prosecution for not having mitigated the risk posed by drivers.



Some software systems can also help pinpoint situations on the road, which could lead to further angst back at the depot. As authorities seek to make the roads a safer place, regulations are becoming more punitive, with the latest being the new on-the-spot fines for driving tired, which can result in an instant fine of £1500, for five offences of this nature.

Now, inspectors can not only fine a driver for one breach on the day they carry out a check, but issue fines for any other such breaches in the previous 28 days. Up to five offences, leading to a £300 fine for each one, can see a driver having to pay £1500 there and then, or have their vehicle immobilised.

Being able to track instances of flouting the law when it comes to driver breaks is just one area with which intelligent software can assist, but there may be many other advantages for you and your fleet. To discuss the options when it comes to fleet risk management just get in touch with us. We will guide you through the different systems that can help your drivers stay safe behind the wheel, keeping the public, and your business and its reputation, safeguarded at the same time.



## Leave no stone unturned with Silicosis Risk Control

**Stone masonry is one of the oldest trades in history, but is now also one of the modern-day workplace sectors most under scrutiny, as experts warn that silicosis could become the new asbestos.**

Silicosis is a long-term work-related lung disease to which anyone working with silica - naturally occurring in materials such as stone, concrete, brick, glass, sandstone, granite and shale - may be susceptible to, if the risks are not properly controlled. Whilst some sufferers have been exposed to Respirable Crystalline Silica (RCS) over the course of 10-20 years, it is perfectly possible to suffer from silicosis after just a few months of heavy exposure to RCS.

The Health & Safety Executive (HSE) has been warning about silicosis for some time, and the limit of exposure to RCS is controlled by the Control of Substances Hazardous to Health Regulations (COSHH). However, it is now becoming apparent that some cases of silicosis could be missed during health screening, or be misdiagnosed as another condition.

We are now witnessing a proliferation of personal injury lawyers offering to take up silicosis cases and promising to seek compensation for what is a debilitating and irreversible condition. This is not surprising. In the US, the permissible exposure limit to RCS has been cut by half; in South Africa, miners have sued their employers. Such action overseas can only serve to encourage law suits in the UK.

For employers running construction, masonry, foundry, glass manufacturing, ceramics, quarrying or other businesses generating dusts that could contain RCS, these should be worrying times. With the huge public outcry over fracking in the UK, those in the shale gas sector should also sit up and take note of their responsibility to control the risks promoting silicosis.

Last, but not least, is the exposure to RCS in the manufacturing sector, where silica is used in a wide variety of processes and where possible exposure to fines and law suits also exists. The same attitude to risk management processes will need to be adopted.

In February 2016, the HSE carried out checks at 60 stone industry businesses in the south, with these including monumental masons, worktop manufacturers and stonemasons. It found serious breaches of health and safety in over half of the businesses inspected, which led to the issuing of 4 Prohibition Notices and 54 Improvement Notices.

With regard to these HSE checks, HSE Inspector, Tahir Mortuza, said: "HSE intends to visit more stone work businesses in the future to ensure that health and safety is adequately managed. Business owners should review their processes and the materials they use whilst thinking about what might cause harm and whether they are doing enough to protect workers.

Once the risks have been identified, businesses need to decide how best to control them, so they can put the appropriate measures in place. A good starting point is to look at RCS, as it is one of the greatest risks for businesses engaged in stonework, as found in this inspection campaign."

The need for strong risk management with regard to silicosis has never been more apparent. Construction firms and other businesses must ensure they comply with the COSHH limit and should also do all they can to suppress dust in the workplace: vacuum cleaning or wet sweeping rather than using dry brushes, keeping equipment clean, having proper wash-down facilities for workers and safe storage for contaminated clothes, and ensuring extraction systems are adequate and working correctly.

There is a lot to think about with RCS and it may be that contacting a professional risk manager and getting the right procedures in place is paramount for your business, if you are struggling to meet your legal responsibilities. If you need assistance with your risk control, procedures or documentation, please get in touch with us and ensure that you protect not just your workers, but the future of your business too.

Sources:  
<http://www.hse.gov.uk/lung-disease/silicosis.htm>  
<https://www.nhs.uk/conditions/silicosis/>  
<http://www.hse.gov.uk/pubns/guidance/bk0.pdf>



## What will Brexit mean for your insurance?

**Britain's withdrawal from the EU is scheduled for March 30 2019 and there will be ramifications in many industry sectors. But exactly how will it impact the insurance markets and company or individuals' insurance policies?**

The simple answer is that nobody has an answer. Insurers are currently issuing renewals for dates stretching beyond the date on which Britain withdraws, without actually knowing for sure whether that cover will still be valid, or whether those covered by such policies will be uninsured as of March 30, 2019.

The issue is that insurers have been used to covering risks on a pan-European basis, regarding the 28 countries which make up the EU as one single insurance market. For some EU-based insurers it remains to be seen whether they have an appetite to insure the UK market once Britain is no longer an EU member.

It is also unclear how insurance regulation will operate post-Brexit and what the impact on premiums will be, if new regulations and procedures have to be adopted.

Since 2012, there has been gender-neutral pricing for risks, whereas previously women were often regarded by underwriters as a safer risk and typically paid lower premiums for insurance cover such as motor, as a result. So will there now be a return to writing risk on the basis of gender? Again,

nobody knows. Similarly, prior to joining the EU, British motorists needed 'Green Cards' to drive in Europe. Will that sort of documentation become necessary once again? Once more, nobody can say.

Much is likely to depend on how hard a Brexit the politicians deliver and how multi-national insurers react to the new 'market'. Some may seek to stabilise operations by establishing new offices, either in the EU or in Britain, or try other means of maintaining the status quo.

With all this confusion and uncertainty, purchasing insurance is likely to become a difficult maze to negotiate and, more than ever before, customers will need guidance, support and information that they may struggle to access alone. This makes the role of the broker hugely important, both from the point of view of market knowledge and that of insurer relationships.

If you need reassurance or help with your post-Brexit insurance needs, a broker is only a phone call away. As Brexit looms that is a key thought to bear in mind, whatever type of insurance you require.

Sources:  
<https://www.telegraph.co.uk/business/risk-insights/impact-of-brexit-on-insurance/>  
<http://uk.milliman.com/insight/2018/Brexit-Beyond-passporting-Implications-for-the-UK-insurance-industry/>  
<https://www.allianzbroker.co.uk/news-and-insight/news/impact-of-brexit-on-insurance-industry/passporting.html>



## Helping to make the Claims experience less painful

**Insurance is often referred to as a 'grudge purchase', a necessary evil and something that only really delivers any value if the policyholder is propelled by an accident or incident towards the 'moment of truth' – the time at which they have to call on their policy and make a claim.**

At that point, it can come more 'begrudged' than grudge, if the claim is not handled in a manner living up to expectations. Policyholders have a set idea in their mind about how their claim should be handled and become highly engaged in pursuit of that vision. They are even prepared to phone up and be held in a queue for 30 or 40 minutes at a time, just to gain some reassurance that someone is looking after their case.

Knowing the importance of a claim for policyholders, insurers have made great efforts to make the process highly efficient. There has been heavy investment in technology and many insurers now provide the means to open a claim online, on a dedicated website. This will usually allow the policy-holding claimant to track the progress of a claim, access recent correspondence between their insurer and the third party and discover whether repairs or treatments have been authorised. All of this is just a click away, a far cry from the situation even just a decade ago.

Another leap forward in the world of commercial insurance has been the establishment of Centres of Excellence, which give the policyholder access to experienced and technically trained claims handlers within specific specialist areas. The aim is to handle claims pro-actively and with empathy, offering mediation and rehabilitation services for those with personal injury claims, for example. Being trained to gather all the vital information in just one phone call not only speeds up the claim, but also pleases the policyholder, who does not wish to have to do the 'hard work' to make their claim progress.

Those with larger claims will typically see a claims investigator visit their premises, to liaise with them and ensure that the claims handling goes smoothly. Explanations about claims have been made easier by the great strides that have been made with policy wordings – now often jargon-free and written in Plain English.

Giving the policyholder access to trusted suppliers, who are

instructed to work on the claimant's behalf, has also made the claims pill easier to swallow for clients seeking peace of mind about repairs, whether they need the services of a plumber, hire car company, or emergency glazier.

However, brokers are at a particular advantage when it comes to claims handling, not just because of their technical knowledge, or the fact they have their own internal claims handlers in many cases. Largely, the advantage is that of dialogue, being able to convey empathy and action either face-to-face, or over a phone that is typically answered in just a few rings, rather than after many minutes of on-hold music.

Brokers understand that making a claim is an emotional experience and that policyholders in this position want clarity from a person empowered to act. They appreciate that customers who are satisfied with the handling of their claim are six times less likely to take their business elsewhere. In many cases, it is not the size of the financial settlement that affects the customer's view of the claim, but rather the way in which it was handled, with poor helplines, or inadequate answers from employees, all leading to higher levels of discontent.

A Deloitte Insight survey by YouGov, conducted in 2014, but still very relevant in 2018, also found that those who are unhappy with the way their claim is handled are most likely to tell their family and friends about it, whilst only 24% of those who are happy will do the same. 9% of those who feel let down by their policy will make their dissatisfaction known on social media.

A major step towards client satisfaction is ensuring that customers have the right cover in place for their individual needs, which is where choosing a broker to help you with your insurance requirements is a wise decision. A broker will be on hand whenever you need answers, contacting you as many times as you agree is right for you, when the claims process starts.

Placing your insurance with a broker also means that you can express your views directly, perhaps only venturing on to social media to express your satisfaction. If an informed and attentive service is what you want to have supporting you through any future claims process, you can be assured that we will provide that, whenever you need to call upon your cover.

# Cyber Insurance is not just a good idea, but an absolute necessity

**Cyber-crime is growing at a phenomenal rate and is hardly ever out of the news. Unfortunately, there is a still a sentiment prevalent within some British businesses that “it will never happen to me”, although the reality is that many businesses are being targeted every single day.**

When we asked one of our insurers for some examples that could explode this myth of immunity, we received three thought-provoking case studies – the technology business infected with malware, the optician held to ransom and the publisher who lost their passwords. Focusing on each of these highlights why cyber insurance is not just a good idea, but an absolute necessity.

The first case study victim, the technology firm, was alerted to a breach of its systems by a government department. Having cyber insurance in place, the business called in the insurer’s IT forensic experts who discovered a significant amount of malware on the servers. A containment plan led to all malware being removed, whilst legal and PR advice was also provided, under the terms of the insurance cover.

In the optician’s case, an employee clicked on a link which was supposedly going to take her to details of a speeding offence. Instead, this triggered an email from Russia advising that the Cryptolocker virus had now infected the business’s systems, which included locking patient records and software required to keep the business running. A ransom of £400 in Bitcoin had to be paid to receive a decryption key. The insurer approved the payment, but only 90% of the files were recovered and an IT contractor had to be called in, to recover the rest. Luckily, having had the foresight to buy cyber insurance, the optician was covered for business interruption and the costs of not being able to trade for a few days, nor get back up to speed for some weeks.

The bad news about a cyber breach was delivered to the publisher in our third case study by a ‘white hat hacker’, who was quick to point out that they had stolen user names and



passwords for two websites. IT forensic experts had to be called in, who then confirmed that a hack had taken place. The insurance policy covered this expert advice and the actions needed to plug the security breach. It also provided legal advice relating to whether or not the publisher needed to notify those individuals whose data had been compromised.

Such is the need for cyber insurance that the insurer supporting these three clients has launched a GCHQ-accredited Cyber Clear Academy. This provides cyber awareness training for the employees of policyholders taking out cyber cover and potentially an excess policy reduction of £2500.

Training consists of nine different modules, with concise, relevant content that drives cyber messages home and equips trainees with the knowledge that can help combat the ever-changing cyber threat. This is particularly pertinent following the introduction of the new General Data Protection Regulation (GDPR), which requires businesses to protect the data they hold and process.

If this sounds like the sort of assistance you require in your battle against the unknown cyber criminals, who possibly already have your business’s Achilles heel in their sights, please get in touch with us.

Melville Burbage Insurance Services Limited  
Old Drummers Arms  
16-18 Northcroft Lane  
Newbury  
Berkshire, RG14 1BU

Tel: 01635 43880  
Fax: 01635 38730  
info@melvilleburbage.co.uk

www.melvilleburbage.co.uk

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