A JLT Specialty Limited publication

whiteboard

Helping you navigate the world of risk and insurance

Winter 2017

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EDITOR'S LETTER

Preparing for the unknown

Welcome to the final edition of *Whiteboard* for 2017.

As 2017 draws rapidly to a close, our thoughts are drawn to the year ahead and, in particular, what challenges it will bring. 2018 is likely to see more clarity in relation to the UK position on Brexit but it is still too early to accurately predict how this will translate into the risk landscape.

However, implementation of the General Data Protection Regulation is upon us and in this edition we explore some of the risk issues and offer some advice on managing compliance.

Motor insurance is never far from the agenda and there are some signs of price increase in the fleet insurance market, driven partly by the Ogden rate changes but, in reality, by many successive years of premium reduction forcing rates down below 'burning cost'.

But what will happen when we progress inevitably towards the introduction of driverless vehicles? The dynamics of the motor insurance market will be challenged considerably in the months ahead and it will be interesting to review and influence its response.

On behalf of JLT Specialty, I wish you all the best for the festive season and success in the New Year.

Stuart Winter
CEO of UK Retail, JLT Specialty

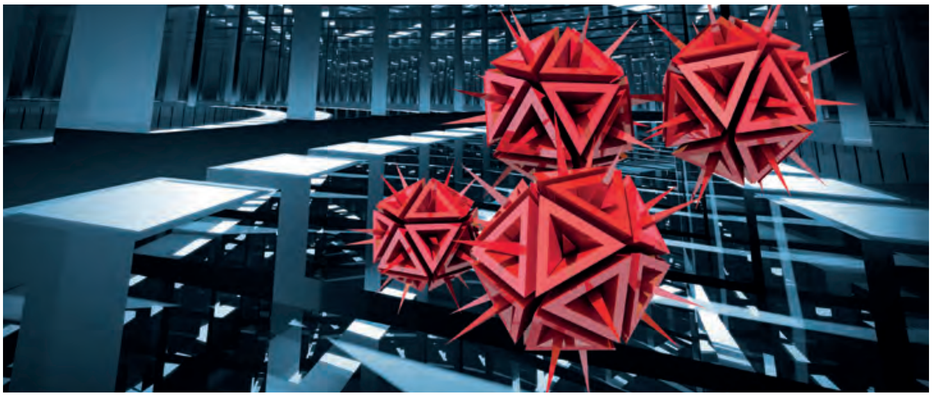
GOING DIGITAL

JLT signs up to London electronic placing platform

JLT has signed up to use Placing Platform Limited (PPL), the London Market's electronic placing platform, and looks forward to participating in its continued development.

Having been involved in its early development leading up to the initial launch in July 2016, JLT has been ncouraged by the progress being made. The recent launch of version 2C of the platform with its added functionality has greatly increased its relevance to JLT, and made it the right time to formally join the initiative.

JLT looks forward to adding its support to an initiative targeting not only efficiency improvements but also further enhancing the client service provided by the London Market.



CYBER RISKS

Cyber risk to rise to top concern for UK businesses by spring 2018

Almost half of UK business leaders predict cyber will be their biggest concern by spring 2018, according to a report into risk and confidence among UK businesses.

The report, the second CNA Hardy Risk and Confidence survey, revealed that political risk and cyber threats were at the forefront of UK business leaders' minds when considering their growth prospects.

Some 71 per cent of business leaders were confident in spring that they could grow and prosper this year; however, by autumn, only 28 per cent still felt the same way.

CNA Hardy noted that political and cyber risks dominate, as UK businesses look internationally for growth.

Supply chain and corporate and regulatory risk were less prominent; meanwhile, political risk was chosen by 26 per cent of respondents as their top concern – more than any other risk type.

Larger firms, with turnover of more than £1 billion, felt political risk was their main concern, with 29 per cent citing such threats, compared with only 23 per cent of smaller businesses with turnover below £5 million.

Almost half (48 per cent) of respondents felt cyber risk would be their top concern by spring 2018, as they expect the threat of malware, viruses, hacks or data theft to increase.

Tech firms showed the most concerned by cyber risk, as 62 per cent suggested this risk will increase by next year.

Dave Brosnan, Chief Executive of CNA Hardy, said: "It's easy to see how political and economic risk dominate the headlines, but they are not potential business killers like boardroom or supply chain risk."

MOTOR RISK

'Vnuk' case could push motor fleet premiums up

The much-anticipated action plan from the European Commission (EC) on how to deal with the outcome of the European Court of Justice's (ECJ) decision in the *Damijan Vnuk v Zavarovalnica Triglav* case is still ongoing.

The ramifications of the Vnuk decision in terms of increased cost and administrative burden to businesses is coming ever sharper into focus, as the ruling threatens to push up motor premiums in the UK and further afield.

The original case arose from an injury claim in which a Slovenian worker was knocked off a ladder by the trailer attached to a reversing tractor on a farm. The ECJ ruled that, as this vehicle was intended to be used on a road, it should be covered by the compulsory motor insurance regime under the 6th Motor Insurance Directive (MID).

The first step in finding a path through the 'Vnuk problem' was taken by the EC when it published its 'Road Map' in June 2016.

Meanwhile, the latest development by the EC is the launch of a consultation. However, this includes the Vnuk problem as part of the wider regulatory fitness and performance programme (REFIT) reviewing the Motor Insurance Directive in its entirety.

Responses to the latest Impact Assessment are now closed, and insurance managers are advised to watch for developments.

AUTONOMOUS INSURANCE

Government to overhaul insurance laws for driverless vehicle cover

The government has said insurance laws will be updated to ensure all parties are covered in any accident involving autonomous vehicles, as self-driving cars are due to be on UK roads by 2021.

There have been questions over liability during the development of autonomous vehicles: while insurers believe that self-driving cars will eventually cut road accidents, there is concern that cars billed as autonomous could cause confusion over responsibility, leaving drivers without cover for their own losses in the event of an accident.

Although drivers must currently remain in the front seat with their hands on the wheel during semi-autonomous or highly assisted driving, safety concerns have been raised about when drivers have to resume full control. A House of Lords science and technology committee report warned that advanced cars could make "drivers complacent and overly reliant on technology".

MARKET UPDATE

Hiscox rates rising after 'historic' year of hurricanes

Lloyd's of London insurer Hiscox has increased insurance premiums by as much as 50 per cent in certain lines because of the losses caused over the summer by hurricanes Harvey, Irma and Maria, which devastated parts of the US and the Caribbean.

Insurers are facing huge costs linked to the hurricanes, and many are responding by increasing premiums for the areas most affected.

"The recent catastrophes are estimated to have cost the industry $100 billion and follow a decade of rate reductions," Hiscox said. "Therefore, it is not surprising that we are seeing signs of a hardening market."

Chief executive Bronek Masojada said: "2017 is turning out to be an historic year for catastrophes and Hiscox's first priority is to help our customers get back on their feet.

"Our balance sheet is strong, and we are in a good position to capitalise on changes in the market."

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talkingpoints

MASTERCLASS

ATE insurance and litigation funding

Legal disputes are a part of today's business landscape. However, litigation does create a significant amount of risk and uncertainty. This risk can be particularly high for SMEs. As well as potentially affecting the day-to-day operations, legal costs can be prohibitively high.

Funding options

De-risking tools are available to ensure that every business has access to justice, regardless of its size or financial position. These are well established in the UK and in other jurisdictions around the world.

After the event (ATE) insurance protects a business should a case be unsuccessful by covering the exposure to the other side's legal costs, with an option to insure own disbursements as well. With all disputes, insurers will assess the case, and will generally require prospects of success in the region of 60 per cent or better before they will offer cover.

The price of cover will depend on a number of factors, including when it is put in place. If a business takes it out in the early stages of a dispute, then the premium can be around 15 per cent to 20 per cent of the limit of indemnity if the case were to settle at a very early stage. It is also quite common for the premium to be deferred and contingent on a successful outcome. A premium in such circumstances is only payable at the conclusion of a successful case.

Litigation funding is the other side of the equation. Rather than an insurance product, this is a financial product where a third party will pay a business's legal costs in exchange for a share of the winnings or multiple of the amount that is funded for the case. The price of funding will be case specific but commonly is between one to three times the value of the funding. Again, the funding is offered on the basis that, if the case is unsuccessful, the funder will lose their investment because the loan is only repaid should the case succeed.

Business benefits

The use of ATE insurance and litigation funding together will significantly reduce the financial risk of litigation, making it possible to pursue meritorious claims with greater confidence.

In some cases, having ATE insurance and/or funding will also give a business strength at the negotiating table, with the other side knowing that the case has the backing of independent third parties who have reviewed the merits and are prepared to back the case. Thus encouraging the other side to settle.

Litigation funding will also ensure that cash flow isn't tied up in the dispute. This is particularly attractive to a business, because paid legal costs come straight off the profit side of a balance sheet. If a company has more than one dispute then it can also consider de-risking a significant portion of its litigation book by obtaining both funding and ATE on a portfolio basis. This will then allow the company to treat its book of litigation as an asset rather than a liability on its balance sheet.

The use of both ATE insurance and litigation funding is now an established part of running litigation within the business sector. This has, in turn, helped to attract more insurers and funders, bringing costs down and creating more market segmentation within the litigation funding industry.

However, with the market becoming more complex, it is increasingly important to use an experienced broker. As well as being able to source the most appropriate ATE insurance solution, JLT will also be able to introduce different litigation funders to ensure that a competitive market has been created for our clients' business. ■

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DID YOU KNOW?

Food firms may be underinsured against recall costs

Food recall incidents are growing in both frequency and severity, as illustrated by this summer's egg contamination, which affected companies in 24 EU states, the US, Russia and South Africa.

As a result of protocol breaches at Dutch farms, millions of eggs contaminated with the insecticide Fipronil, including products with egg ingredients, had to be pulled from shelves, causing loss of income for retailers, wholesalers and distributors throughout the supply chain.

"Hundreds, if not thousands, of UK companies have found themselves facing difficult commercial questions," says Kiran Nayee, Recall Leader at JLT Specialty. "This shows how one contaminated product can have an exponential impact in a world of increasing supply chain complexity."

the number of food incidents handled by the Food Standards Authority, where products were recalled from sale, over a three-month period (April to June 2017)

With contaminated food products almost always destroyed rather than recalled, these incidents can cripple balance sheets, not just in third-party costs but also through termination of contracts and lost future business, not to mention the longer-term reputational impact.

As well as diligent quality control and conducting thorough food safety checks themselves, Nayee says it is essential all food and agri companies do their utmost to ensure their suppliers do the same, particularly when starting new relationships with suppliers overseas.

Social media has heightened the risk of reputational damage in the event of contamination, and having effective response and communication strategies in place is also vital.

According to Nayee, contaminated product (recall) insurance tailored for companies in the food and agri sectors can play a key role in mitigating losses and the financial impact, yet many companies still do not buy cover.

"As well as covering the cost of the recall, these policies can cover third-party loss costs as well as the insured's loss of gross profit and business interruption. They also provide immediate access to specialist technical, crisis management and PR support," he explains, adding: "Without pre-loss planning and an effective post-loss response, it can be very difficult to survive the financial hit." ■

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BACK TO BASICS

The benefits of professional indemnity insurance

Nobody's perfect. Fortunately, that's why there's professional indemnity (PI) cover. PI covers businesses against claims by third parties for breaches of professional duty. It picks up the cost if clients sue for losses owing to bad advice or poor service.

Usually, the cover is for professional negligence – mistakes by directors or staff. Sometimes it also includes other liabilities, such as defamation (libel or slander), breach of copyright or lost data, documents or client goods.

"It can be quite broad," says David Bond, Regional Director for London Market Risks at JLT Specialty.

For many traditional professions, such as lawyers, accountants, surveyors or architects, PI cover is essential, with professional bodies or regulators insisting on cover for firms to practise. In other cases, such as in building and construction, contracts often demand it.

> "Even if a business owner thinks they or their staff won't make mistakes, the costs of successfully defending a claim can easily run to six figures."

But anyone giving advice, offering designs or drawing up specifications should seriously consider it, says Bond – from tax advisors to tree surgeons. Last year, JLT had to advise art dealers to consider it to guard against lawsuits resulting from forgeries. Even if a business owner thinks they or their staff won't make mistakes, the costs of successfully defending a claim can easily run to six figures.

The compensation culture that's driven the surge in personal injury claims in recent years has seen similar rises in claims for professional negligence – between 2012 and 2016, claims in the high court against solicitors and barristers alone rose 170%, according to law firm RPC.

With a competitive market, it's a good time to buy. In any case, though, the costs pale in comparison to the potential damage, according to Bond.

"If a business is averse to paying out money unnecessarily that's precisely why they should buy it, because it's there to protect them and their balance," he says. "Potentially it could save the whole business if the worst happens." ■

Addressing General Data Protection Regulation

The deadline for implementing the General Data Protection Regulation (GDPR) is approaching fast, but are businesses ready? **By Peter Davy**

Time is running out. After years of talk, implementation of GDPR is only months away, with a deadline of 25 May 2018.

"Given how much this has been pushed by the government, brokers and other experts, it's surprising many businesses aren't more prepared," says Sarah Stephens, Head of Cyber at JLT Specialty.

That's all the more so, she adds, given the well-publicised penalties for getting it wrong under GDPR: up to 4 per cent of worldwide revenues or €20 million (whichever is greater) for the most serious breaches, and even €10 million or 2 per cent for lesser breaches. "It's a massive increase," says Stephens.

There's also no getting away from the deadline – not only does the GDPR apply to every business processing data from European citizens, whether it is in the EU or not, the government has made it abundantly clear that GDPR will apply from the deadline, regardless of Britain's future with the EU.

The more things change...

In some ways, though, the lack of activity is understandable.

First, while GDPR will undoubtedly apply in the UK, there's still some uncertainty over how the new rules will work in practice; the draft Data Protection Bill, which will implement the regulation in the UK, was only published in September.

Second, the biggest potential fines are unlikely to be widely applied. The regulator may drag a few firms "over the coals" when the GDPR comes into force, says Neil Warlow, Partner at JLT Specialty, but will probably focus large fines on cases of intentional or reckless breach. "The ICO are trying to be helpful and they've indicated that they are not looking in every case to apply massive fines. It's probably going to be the exception rather than the rule, with an equal focus on the reputational impact," he says.

It is also possible to overstate the requirements. GDPR is focused on personally identifiable Information with special protection for special category of personal data, often referred to as sensitive data. With caveats, if a living person cannot be identified it is not within the scope of the act; if it's not sensitive; the requirements are more easily satisfied.

For some organisations, that accounts for the majority of the data they hold, says Aaron Yates, Chief Executive of cyber security compliance company Berea Associates.

> "The government has made it clear that GDPR will apply, regardless of Britain's future with the EU."

He explains: "There's a lot of concern in the logistics industry that they hold a massive amount of information about customers, for example. When you look at it, though, they typically hold very little on package recipients that could be considered sensitive. It's not health information or anything about customers' gender or ethnicity. You cannot embarrass someone with a name and address – although, of course, it's still personal data that must be treated with respect."

Finally, the GDPR is not a radical departure from what has gone before. Rather, regulations enhance and strengthen the existing approach of the DPA, says Steven Hadwin, Head of Operations in the Cyber Practice at law firm Norton Rose Fulbright. "Many of the fundamental principles are largely the same."

Act now

Nevertheless, businesses do need to address GDPR. For a start, it would be wrong to assume the principals enshrined in the existing legislation have necessarily been taken to heart. "Most businesses have ignored the Data Protection Act," says Yates.

Second, almost all businesses have some data that is both personally identifiable and sensitive – staff details if nothing else. There are new requirements (see panel) that will be challenging to comply with.

While failure to do so might not often attract the multimillion-pound fines, that's arguably not going to be the most prevalent sanction under the new regime.

"What GDPR really provides scope for is a much greater impact on companies' reputation. There are going to be a lot more notifications of data breaches," says Warlow.

Mitigate the risk

Fortunately, these are areas where insurance can help. While it can't generally cover regulatory fines (as a matter of law), it can mitigate the potential impact of the new regulations.

First, it can cover the costs associated with a breach, such as the response and potential third-party liability and any class actions that could result. More importantly, says Stephens, it will enable businesses to comply – meeting tough requirements, such as that to notify the regulator of any breach within 72 hours, which would otherwise be a struggle for those lacking in-house expertise and resources.

The policies give access to a panel of experts that allow businesses to identify and address the weaknesses that would stop them measuring up under the regulations.

As Stephens says: "The expertise and, in many cases, service that you get along with a cyber insurance policy are going to allow you to achieve compliance with the swift notification timeframe. That brings a huge amount of comfort to organisations because they know they will be able to respond." ■

Top tips for compliance

- It starts at the top: the board should be accountable for data protection and ensure the risks receive ongoing attention.
- Create a data-processing register detailing what data is held by the company, how it is stored and transferred, what it is used for, and by whom.
- Classify personal information in terms of risk, and establish procedures to erase data when the retention period has passed.
- Perform a risk analysis on all new projects to identify privacy risks and mitigation measures.
- Actively manage contracts with third-party service providers with whom you share personal data.
- Embed and test a procedure to handle personal data incidents.
- Increase the privacy-awareness of your staff.
- Ensure employees can recognise and respond appropriately to requests from data subjects to exercise their rights such as the right to be forgotten.
- Determine and document whether your organisation should have a Data Protection Officer.
- Review and amend privacy statements and notices to meet the enhanced transparency requirements.

What's new

The GDPR enhances requirements in a number of key areas:

- It radically increases the territorial scope of EU data protections to include those processing personal data of EU citizens, regardless of where the business is based.
- Businesses must notify regulatory authorities within 72 hours of personal data breaches.
- Appropriate security must be in place to protect personal data, and parties processing personal data on a data controller's behalf must be subject to robust due diligence and controls.
- Data subjects must be advised how their data will be processed, and consent under the GDPR must be freely given, specific, informed and unambiguous.
- Data subjects' rights have been strengthened, so people can ask to receive their data in a structured format to allow easy transfer to another data controller ('data portability'), ask to have their data erased (the 'right to be forgotten') and object to profiling and direct marketing.

For more information

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Peter Davy is a risk and insurance specialist journalist.

The value of accuracy

Why a professional insurance valuation is vital in ensuring you have adequate cover for your business. **By Sam Barrett**

Whether it's the goods you sell or the services your business uses, everything has a value. And, just as you'd use your own expertise to determine the price of these items, a professional insurance valuation is key to protecting your business assets.

A professional valuation will help ensure your business is insured for the correct amount. "Having the right level of cover is essential in the event that you make a claim," explains Candy Holland, Managing Director of Echelon Claims Consultants. "Underestimate the amounts you need to insure for and you will find yourself having to meet some of the costs yourself. This could have a major impact on your business."

Problems on claims arise where the sum insured does not adequately reflect the full replacement value of the assets. In this situation, most policies incorporate an average condition that will apply. This allows the insurer to reduce the settlement by a percentage equal to the level of underinsurance. Ian Fulton, Claims Consultant at Echelon Claims Consultants, explains: "If a business insures its buildings for £2 million but the actual value is £5 million, the insurer would only be liable for 40 per cent of any loss. In the event of a £500,000 partial loss, this equates to an insurance settlement of £200,000."

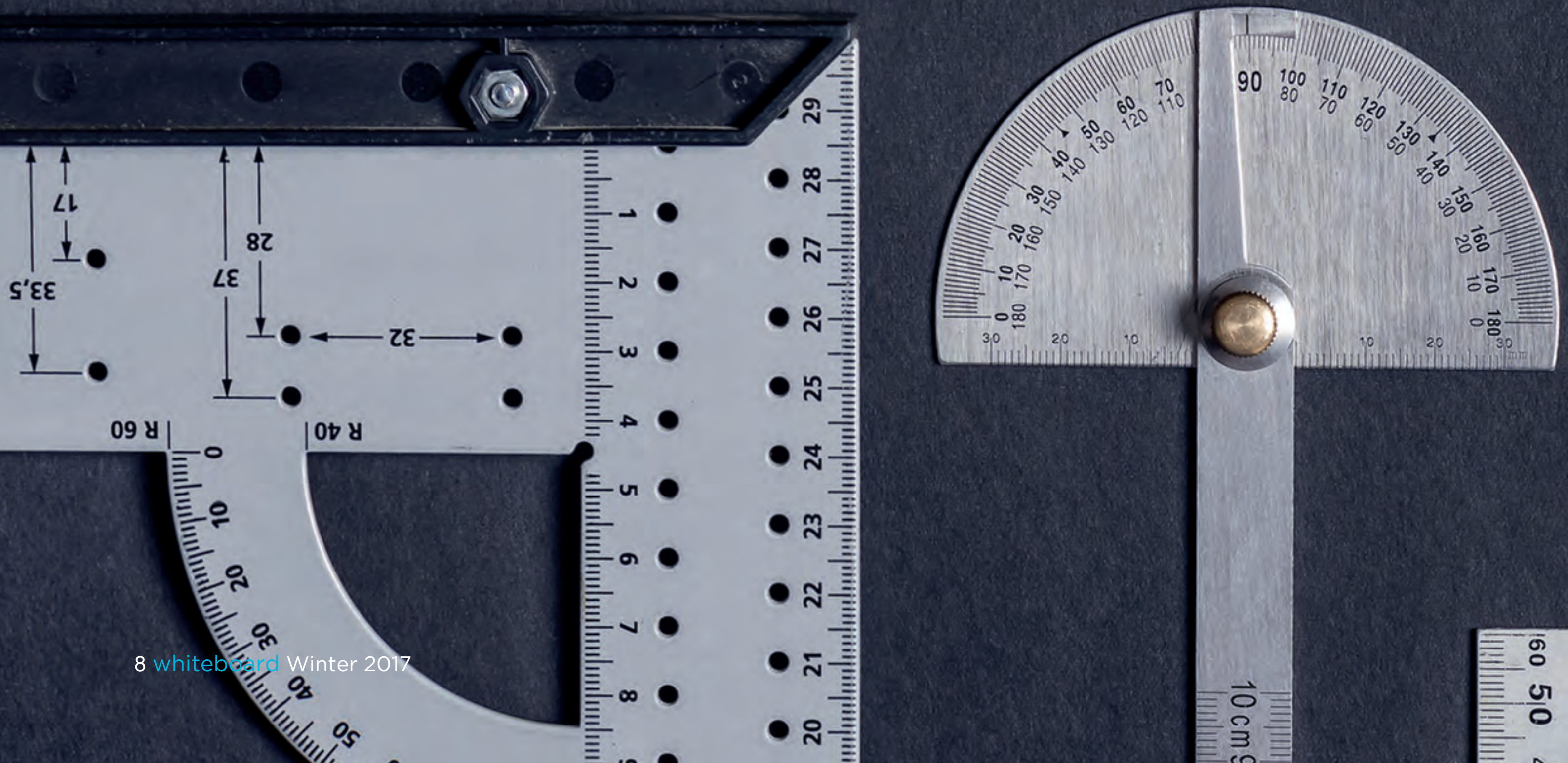
> "Underestimate the amounts you need to insure for and you will find yourself having to meet some of the costs yourself. This could have a major impact on your business."
>
> Candy Holland
> Managing Director, Echelon Claims Consultants

Most policies allow a little wriggle room by including an 85 per cent average condition, where average is only applied where an asset is insured for less than 85 per cent of its reinstatement value. However, even with this, many businesses can still find their sums insured fall very short.

Mind the gap

According to a review into SME insurance claims by the Financial Conduct Authority in 2015, property and business interruption sums insured were inadequate in a significant number of cases. Holland isn't surprised by this. "Most underinsurance I encounter is not deliberate but many companies don't appreciate what an insurance valuation entails. Without professional guidance, it's very difficult to provide an accurate sum insured," she says. "Determining the correct rebuild or replacement figure is very complex, especially when you're looking at large commercial premises or a portfolio of buildings."

It's something seen all too frequently by Gareth Williams, Director at specialist valuation company Rushton International. Of the last 20 valuation exercises his firm



has completed for SME clients, almost 70 per cent were underinsured.

One of the commonest mistakes he sees is to plump for the book value of the building or asset. "This is the value to the business. However, depreciation is usually factored in so these values can be far too low," he explains.

Another common error is to go for the market value of an asset. Again, this can have very little bearing on the actual reinstatement value required for insurance purposes. Holland adds: "The market value of a building can be significantly more or less than its rebuild value. It's determined by a very different set of factors."

Value judgement

For starters, the reinstatement value needs to include the cost of rebuilding all the constituent parts of a building including, for example, the foundations, hard standings, garages, outbuildings, and walls and fences. It also needs to include surveyors' and architects' fees and the cost of demolition and debris removal, which can be significant.

Factoring in the potential for costs incurred due to statutory obligations will also have to be taken into consideration. Holland explains: "We've seen instances where companies have had to fit sprinklers to comply with building regulations when their property was rebuilt. A professional valuer will be aware of these issues and ensure they are reflected in the sums insured."

70%

were underinsured according to Rushton International's last 20 valuation exercises on SME clients

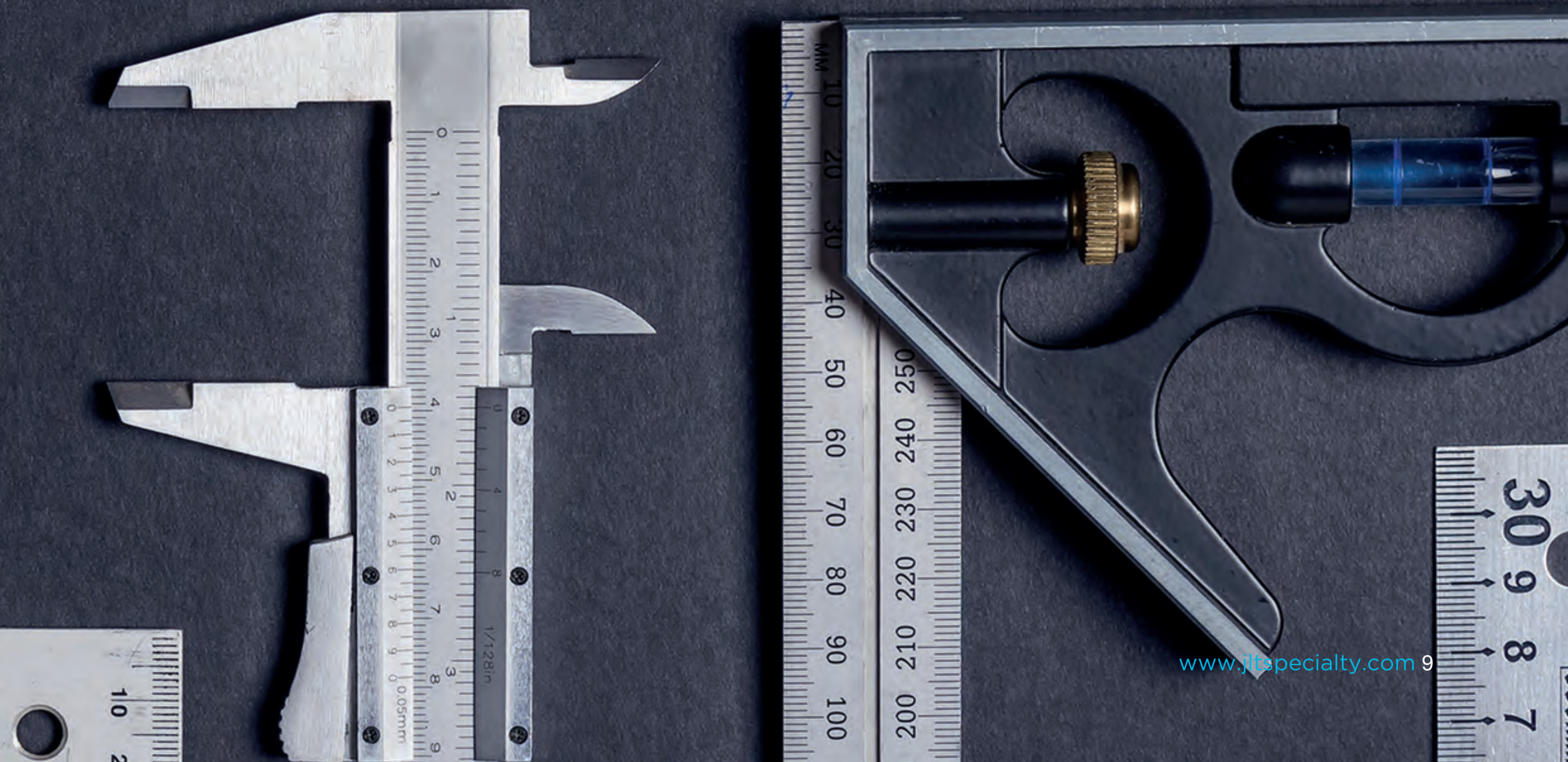
Determining the correct value for contents can also require specialist knowledge. Again, it's important to insure for replacement rather than for the written down value of the item. Williams explains: "A business might buy second-hand machinery at a greatly reduced price but, when insuring on a reinstatement basis, they need to insure it for full value. Similarly, with a large piece of equipment, they would also need to take installation and commissioning costs into account."

Indexation creep

Even where a business starts with an accurate value, it can quickly go awry if it's not closely monitored, with any errors in annual indexation compounded over time. Often this is due to using the wrong index. For example, although the Retail Price Index is commonly used to factor in inflation, it isn't appropriate when determining property sums insured. Instead, and dependent on market conditions, a professional valuer will use either the Tender Price Index or the General Building Cost Index as these more accurately reflect the cost of a rebuild.

Similarly, where a business may need to import a replacement item, it's also important to keep an eye on currency exchange rates. "The Royal Institution of Chartered Surveyors (RICS) recommends a professional valuation is undertaken every three to five years," says Williams. "It may be necessary to do it more frequently if the business undergoes significant change, such as building an extension or acquiring new machinery."

Misunderstandings can also lead to the wrong value being submitted to an insurer. As an example, a company with an old building that's in a poor state of repair might decide to insure it for less as they'd put something else up in its place if there was a total loss. Likewise, a business might decide to take out a lower level of cover, arguing that it was unlikely that it would ever have a claim for more than that amount.



In both cases, though, this misunderstanding can leave them significantly out of pocket. Fulton adds: “It may be possible to take out cover on this basis, but you need to arrange it in this way at outset. If you don’t, you’re underinsured.”

Arbitrarily increasing sums insured to reduce the risk of underinsurance can also be damaging. Regardless of the sum insured, where reinstatement is the provision in the policy, the insurer will only pay out on the actual replacement cost. As a result, having too much cover, known as over insurance, is simply a waste of money.

Cover certainty

The Insurance Act also provides an incentive to get an accurate valuation. Under this, commercial clients have a duty to make a ‘fair presentation of risk’ to insurers. This involves disclosing all material facts, including information that would lead to a prudent insurer making further enquiries.

Having a professional valuation also enables you to take the benefit of the professional valuer’s clause, which can be included in the policy. This ensures that, where you’ve had a professional valuation undertaken by a firm regulated by RICS, even if the sum insured isn’t accurate, the average condition will not be applied to reduce your claim.

> “The Royal Institution of Chartered Surveyors (RICS) recommends a professional valuation is undertaken every three to five years.”
>
> Gareth Williams
> Director, Rushton International

In the final analysis having a professional insurance valuation makes sense, giving you the reassurance that you won’t be penalised for underinsurance when you need to make a claim. ■

For more information

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Out of pocket

Two days after Christmas, Ian Fulton, Claims Consultant at Echelon Claims Consultants, received a call regarding a manufacturing company in Kent that required assistance with a claim.

“The River Medway had burst its banks over Christmas, flooding one of its sites,” he explains. “When I received the policy details, I did think it might be unusual: the sum insured for the buildings was £1 million, which is far too round a number.”

When he arrived on site, his concerns proved to be justified. The company had been on the site since 1930 and, over that time, its operations had expanded considerably. “They had a collection of different buildings, some single storey, others double storey and even an old Nissen hut,” says Fulton. “The company had the right level of cover for its contents and stock but I instantly knew the buildings sum insured was way too low.”

The company instructed a local surveyor to determine a value. The figure came in at £2.5 million, although we thought it was way too optimistic and didn’t stand up to scrutiny. More significantly, the insurers’ loss adjuster had also done the calculations, putting a value of £3.7 million on the buildings. “On that basis, with just £1 million of cover, the company’s buildings would have been only 27 per cent insured,” adds Fulton. “On the £0.5 million partial loss they’d suffered, this equated to a payment of just £135,000.”

Fulton thought that the £3.7 million figure was high and worked with the loss adjuster to agree a figure of just over £3.1 million, increasing the level of insurance to 32 per cent. This meant the claims payment was in the region of £160,000. “Although the company ended up having to pay for around two thirds of the property damage loss, we were able to reduce this through our negotiations with the insurer and loss adjuster,” adds Fulton. “There was some wriggle room around definitions of buildings and contents and the loss adjuster and the insurer generally showed a good attitude to the claim, having been impressed by how the insured went about matters, with their own employees coming in over the Christmas break to start the clean-up process and them doing everything possible to reduce the repair works and limit costs. But it was still a hard way to learn about the importance of having an accurate sum insured.” ■

Reforming the Ogden rate

After a dramatic change in the Ogden discount rate earlier this year, the government has since decided to revise it. We find out what impact the rate reform will have on the insurance industry. **By Peter Keefe**

Until earlier this year you probably wouldn't have been aware of the Ogden discount rate, unless you were involved in settling major injury claims or were in an accident that seriously affected your quality of life. However, in March 2017, the government changed the rate from 2.5 per cent to minus 0.75 per cent, resulting in alarming headlines that increased its profile considerably:

"Ogden hits Aviva UK COR as it rises to 106.3 per cent" *Insurance Age* (9 March 2017). "Personal injury rule change wipes £217 million off Direct Line Profits" *The Telegraph* (7 March 2017).

"QBE to be forced to hike UK prices after changes" *The Australian* (28 February 2017).

Sudden change

The Ogden rate is the discount that is applied to large personal injury claims, which recognises that the claimant can invest the payment and receive a return on it. The discount rate reflects the expected rate of return on the investment of the lump sum – and this hadn't changed since 2001.

Insurers' financial results were turned on their head and there was immediate pressure put on front-line underwriters to increase rates on any class of business that was exposed to personal injury losses. Clients involved in higher risk occupations or that had large outstanding injury claims reserves were put under the spotlight and many clients were looking at immediate and significant increases in their premiums.

Was this the moment that was going to harden the whole UK commercial insurance market? It hasn't yet, with the exception of the clients mentioned above.

The fact that insurers' 2017 budgets/rates were set before the severe rate changes meant that there wasn't a cohesive response from the market; the aggressive pursuit of new business also limited the impact.

There was a feeling that perhaps there would be more of a response from insurers in 2018. The government, however, has now decided that the rate of minus 0.75 per cent was a step too far and has agreed that something between 0 and 1 per cent is more appropriate (but want to undertake a consultation process in 2018 before settling on a figure).

There has been a positive response from insurers. Stephen Hester, Chief Executive at the RSA Group, comments: "We welcome the proposed reforms, which much better reflect the realities of how claimants invest their compensation payments today and provide a means to continue to review the situation over time.

"If passed, the benefits will be felt by all our customers, helping to stop the rot of steep rises in premiums, which are having a disproportionate impact on costs for motorists, businesses and the NHS."

While positive, the news has created more uncertainty, which is illustrated in the following claims example recently provided by Eversheds:

A 30-year-old male with a lifetime future care claim of £50,000 per annum:

- At the current discount rate of -0.75 per cent, his award for future care would be £3,571,500
- At the new discount rate of 0.5 per cent his award for future care would be £2,434,000.

That is a difference of £1,137,500.

It's a real challenge reserving for claims when such small percentages have such a significant impact on quantum.

Despite the fact that the Ogden discount rate is set to increase, insurers will still be pushing for higher rates in 2018 for certain exposed classes of business due to the fact that the rate will still be less than the 2.5 per cent it was at the beginning of 2017. It is also fairly certain that claimants will be pushing for an early settlement of their cases before the revised discount rate becomes law. ■

For more information

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Bridging the digital skills gap

With the government acknowledging that a lack of digital skills costs the economy tens of billions of pounds every year, we look at what companies can do to maximise their return on new technology. **By Paul Golden**

45%

graduates say internships and work placements have been more valuable to them than degrees in their professional life

There is no shortage of opinion on how the UK's 'digital skills crisis' should be addressed, much of which focuses on encouraging more young people to pursue careers in technology.

Doniya Soni, TechUK's Policy Manager for Skills, Talent and Diversity, says the industry and government must work together to ensure young people are prepared for jobs of the future as digital skills become part of every role.

There are also calls for employers to offer in-house training to ensure digitally proficient workers are able to keep their skills up to date.

Capita IT Professional Services' Business Development Manager, Ali Subhan, suggests that, with around three quarters of a million technology positions in the UK remaining unfilled, companies need to emphasise training within speciality fields and capture the imaginations of students before they choose the higher education route.

> **The industry and government must work together to ensure young people are prepared for jobs of the future as digital skills become part of every role.**
>
> Doniya Soni
> Policy Manager for Skills, Talent and Diversity, TechUK

A report published by Intern Tech earlier this year suggested that the university system is failing students and businesses, with 45 per cent of graduates saying internships and work placements have been more valuable to them than degrees in their professional life and 28 per cent believing their university education was 'outdated'.

Industry impact

So how is this issue affecting the financial services, manufacturing and construction sectors?

Many sectors of the manufacturing industry could struggle to recruit sufficient numbers of skilled employees post-Brexit, says Peter Cant, Head of JLT Specialty's Reading Risk Practice.

"In some cases, though, investment in new technology reduces the number of highly skilled operatives," he explains. "For example, a client has recently invested in computer-run machines that require minimal human interaction."

> **Many sectors of the manufacturing industry could struggle to recruit sufficient numbers of skilled employees post-Brexit.**

Research conducted by Oxford Economics found that developing digital skills is a priority for financial services firms, with digital proficiency as the most important quality for a manager of the future to possess. However, it also advises these firms to focus on digital transformation – not just technology – as a new wave of technologies hit the market and threaten existing ways of doing business.

PwC's global financial services HR Consulting Leader, Jon Terry, says demands for talent stretch from industrial engineers for robotics work to executives with a background in analytics and innovation.

28%
graduates believe their university education was 'outdated'

Actions taken to address skills shortages among the financial services companies surveyed by PwC include changing strategies for recruitment, retention and development. Almost two thirds of organisations said they had added digital training to their learning programmes, while half were exploring the benefits of humans and machines working together.

Terry warns that slow and uncertain responses to the talent demands CEOs are reporting are leaving too many established financial services organisations on the back foot, facing growing skills gaps.

Training has the potential to mitigate this risk. A study by Fintech Circle Institute reported that more than two thirds of financial services professionals say lack of training is the biggest factor preventing them developing their digital skills.

Dave Cahill, JLT Construction's Business Development Leader, observes that the University of Waterloo's Future of Construction report suggests firms need to make the most of older, more experienced employees by embracing new technologies and using manufacturing methods that are less physically demanding.

Some of the options here include greater use of prefabrication techniques, increasing automation and human-robot collaboration.

"There is huge demand for more skilled labour in the construction sector and companies are already experiencing shortages," says Cahill. "Offsite construction and modularisation can mitigate the impact of skills shortages."

The effect of BIM

Building Information Modelling (BIM) is already having an impact. BIM is defined as a collaborative way of working, underpinned by digital technologies that enable more efficient methods of designing, creating and maintaining built assets. It embeds key product and asset data in a three-dimensional computer model that can be used for effective management of information throughout a project life cycle.

Cahill notes that the ability for all members of a project team to work on a live model will create issues around liability – in the event of a fault being introduced to a model – as well as around intellectual property. ■

For more information

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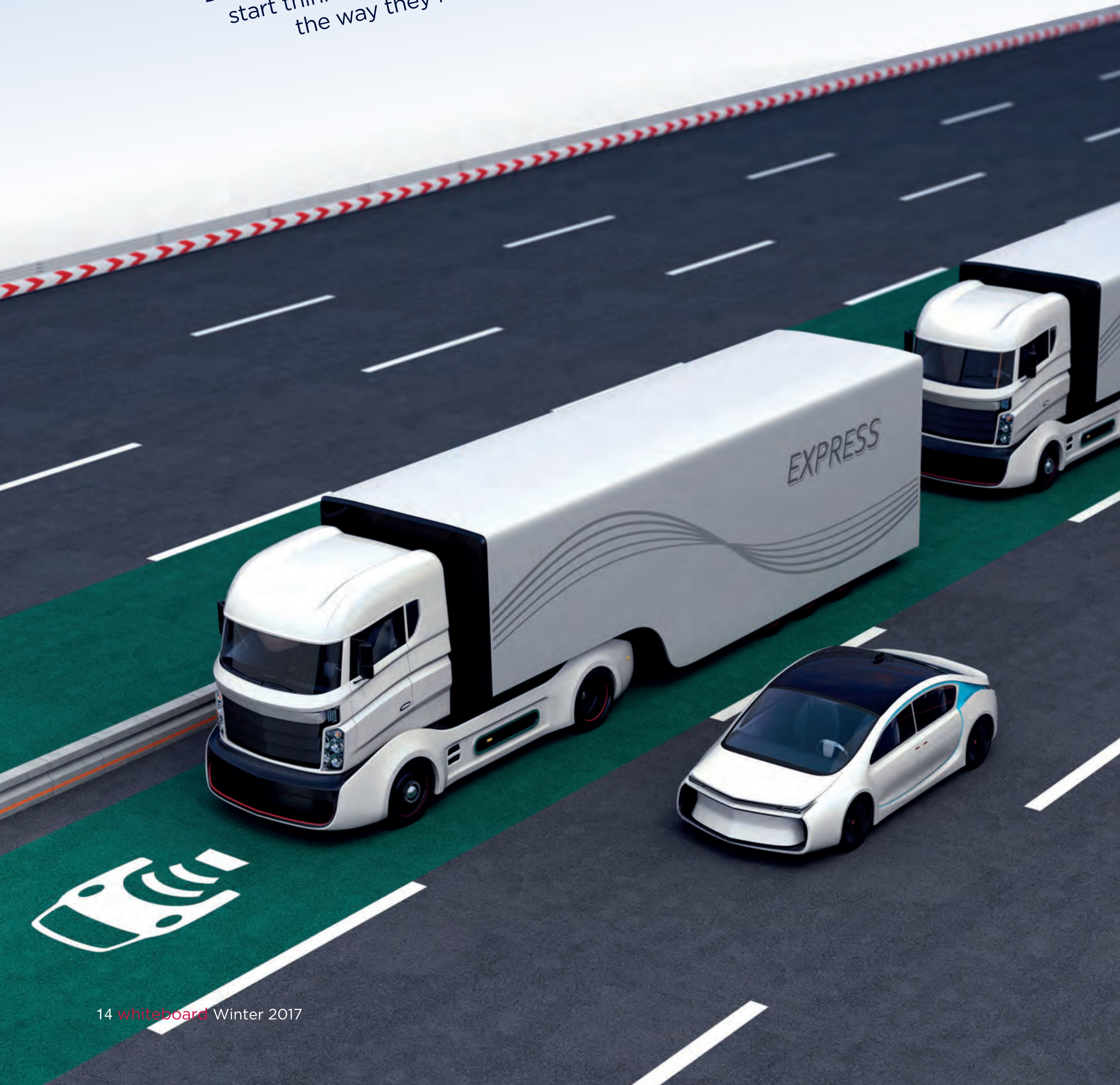
Paul Golden has worked for national newspapers, trade magazines, agencies and research companies.

Next-generation cars

Driverless vehicles are on their way. Commercial fleet owners should start thinking now about how autonomous transport will change the way they run their businesses. **By Antony Ireland**



The transition to autonomous vehicles has already begun, and is set to drastically alter the business models of companies that rely on commercial fleets over the next two decades.

Many consumer vehicles already include automated crash prevention systems as standard, but the Chartered Insurance Institute predicts that, by 2040, the UK fleet could be almost entirely driverless. Nissan hopes to deliver its first publicly available autonomous vehicle as early as 2020, while Volvo began testing 100 driverless cars on Gothenburg's public roads this year.

"People in cities and towns of the future won't bother owning a vehicle. They will just dial up when they want one; it will arrive and take them wherever they want to go," says John Hoey, Motor Broker at JLT Specialty.

Ironing out the various complex social and legal hurdles to allow driverless cars onto the roads will take years, but commercial fleet owners can already start planning how their workforces, practices and procedures may need to evolve in the years to come.

Haulage companies are likely to be among the first to adopt driverless vehicles as the sector is currently suffering from a driver shortage and an ageing driver workforce, and trials on driverless HGVs are already under way. However, many other sectors, from delivery firms to taxis, also face reinvention.

The adoption of driverless vehicles should, in theory, reduce the number of cars on the road, improve road safety and improve efficiency for fleet owners. "In the future, you could have a commercial vehicle running 24/7 without the need to employ three shifts of drivers," says Hoey.

"Manufacturers firmly believe that, by around 2025, we will see driverless commercial vehicles on our roads. Logically they will be allocated their own lane on the motorway (probably the current outside overtaking lane), allowing them to travel in close proximity at higher speeds than today."

Adapting to the transition

As human drivers become increasingly redundant, job losses are inevitable. However, Steve Vachre, Motor Specialist at JLT Specialty, notes that "when technology replaces jobs, it also creates new jobs elsewhere".

Owners and staff will have to adapt to new systems, manuals and procedures during the transition, with fleet workforces requiring entirely different skill sets to those employed today. Rather than employing a team of drivers, for example, fleet-based firms will instead need a control room of operators monitoring and controlling the fleet, ensuring they are on route and performing.

Employers should therefore start planning how to manage a transition to a totally new working environment.

"Manufacturers firmly believe that, by around 2025, we will see driverless commercial vehicles on our roads."

John Hoey
Motor Broker, JLT Specialty

Companies may also have to consider the brand representation issues around replacing drivers who face the public. "They will effectively be removing the personal face of the business, which may be the only face the customer sees if they order goods online. Some customers may want to see a person, particularly the older generation, so businesses may have to find new ways to connect with them," says Vachre.

However, the biggest concern around driverless fleets is arguably cyber risk. "If a hacker was able to take control of a vehicle or make numerous vehicles talk to one another simultaneously, this could lead to a catastrophic road incident," says Vachre, adding: "Insurance is therefore going to be as relevant as ever."

Given that human drivers will no longer be in control of vehicles, the onus of insurance coverage will shift from the fleet owner to the vehicle manufacturer in the years ahead. "Traditional motor insurance will eventually be replaced by product liability. The insurance savings for fleet owners could be huge," says Hoey.

However, Vachre notes that assessing where liability lies during the period when there is a combination of fully-automated, semi-automated and driver-controlled vehicles on the road could be challenging.

With full automation still several years away, Vachre suggests fleet owners, in the meantime, take advantage of the array of 'midway technologies' that bridge the gap between manual and automated driving, such as adaptive cruise control, lane departure aides, autonomous emergency braking, telematics and park assist. All contribute to safer driving, fewer accidents and reduced claim costs.

Fleet owners will also have to manage the transition from fossil fuel-powered cars to electric vehicles over the next decade. In the UK, all cars must be electric by 2040, but many manufacturers plan to have moved away from traditional fuel engines well before then.

This transition may call for additional training and safety procedures for drivers, particularly when it comes to handling high-voltage batteries.

"Adapting to the availability of charging points is probably the biggest challenge in the transition from fuel to electric cars," adds Hoey. Fleet owners need to organise their routes and schedules carefully to avoid unnecessary interruptions to their service. However, this should become less of an issue as roads become more populated with charging points and battery recharging times continue to improve.

The rise of product recalls

With such rapid increases in technology and the shift from human to product error, it would be a safe bet to assume that this upwards trend in both cost and frequency will only increase in the automotive industry. Sophisticated and interconnected component parts, sourced from numerous different suppliers, coupled with greater complexity in supply chain, clearly makes product risk a huge challenge.

Vehicle complexity, regulatory scrutiny, technology and integration will have dramatic consequences on the number and costs of recall losses within the automotive sector. As the industry changes, the risk is rapidly shifting from human error to product risk, leading to enhanced exposures for insureds.

As automotive technology takes over, can the insurance market respond with solutions that are equally integrated? ■

For more information

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