

THE UNIVERSITIES' MUTUAL

The Tailored Solution for Insurance Services

NEWSLETTER SPRING 2016

PAYBACK NEWS LEADS UMAL'S SPRING CONFERENCE

The announcement of a uniquely generous subsidy scheme, funded from returned contributions, dominated a day of wide-ranging presentations at UMAL's Spring Conference. Held at BMA House in London's Bloomsbury district, the Conference welcomed representatives from our member universities and colleges.

Since its foundation by a few forward thinking universities in 1992, UMAL has provided a reliable alternative to traditional commercial insurance for Member institutions across the UK. Proof, if needed, comes in the shape of £5 million of terrorism cover reserve funds which are to be returned to relevant Members in the form of substantial subsidies on their contributions over the next few years.

Presenting the scheme, Director and CEO Susan Wilkinson said: "We appreciate that these are difficult times for higher education, so we are very glad to be able to do something to help our Members."

UMSR (initially called U M Association (Terrorism) Limited) was created in 1993 to provide property and business interruption (PDBI) terrorism cover to Member universities, and later FE colleges, a class of cover that had become very expensive to source on the open market – especially for those locations in London and other major cities. Start-up funding was provided by UMAL which had been created the year before. At launch UMSR had twenty-nine Members, which by 2013 had grown to 120. The two mutuals united in 2013, with this class of cover transferring as a specific class within UMAL.

"WE APPRECIATE THAT THESE ARE DIFFICULT TIMES FOR HIGHER EDUCATION, SO WE ARE VERY GLAD TO BE ABLE TO DO SOMETHING TO HELP OUR MEMBERS"

Susan Wilkinson,
Director and CEO, UMAL

Any institution that was a Member of UMSR between 2006 and 2012, and still buys this cover from UMAL, qualifies for the

rebate scheme. The fund 'pot' available to each institution is their proportion of the aggregated surplus, based on their contributions over the same period.

The pot will be returned as a 25% subsidy, or discount, against their annual terrorism cover contributions for the next five years (i.e. until 2020-21) – or until the pot is exhausted.

For simplicity, the 25% figure is calculated against their 2015 terrorism class contribution. Of course it follows that they have to remain Members of UMAL to benefit.

UMAL is even prepared to consider universities that have stopped sourcing

their terrorism cover from them since 2013, and want to re-join to take advantage of the scheme. However, returning institutions will have to buy all their covers from UMAL, not just PDBI terrorism.

This is not the end of the story. The £5 million for the scheme is being taken from UMSR's General Reserve of £19.7 million; depending on claims, it is expected that this will also be earmarked for return in future years. "Mutuality pays, ultimately" says Susan Wilkinson, "you've just got to stick with it. In addition to the annual refund of profits, the two mutuals have been able to reduce the cost of cover year on year."



Jonathan Wood of Control Risks updates the threat

UPDATING THE THREAT

In a chillingly prophetic presentation at the UMAL Conference two weeks before the terrible Brussels bombings, Jonathan Wood of Control Risks predicted that "there would almost certainly be a terrorist attack in Europe in 2016".

Setting the scene, he stated that there were currently four key drivers of Jihadist terrorism:

- The so-called Islamic State (IS) is under pressure in Syria and Iraq, preventing its spread in the region,

and generating more interest in international operations elsewhere.

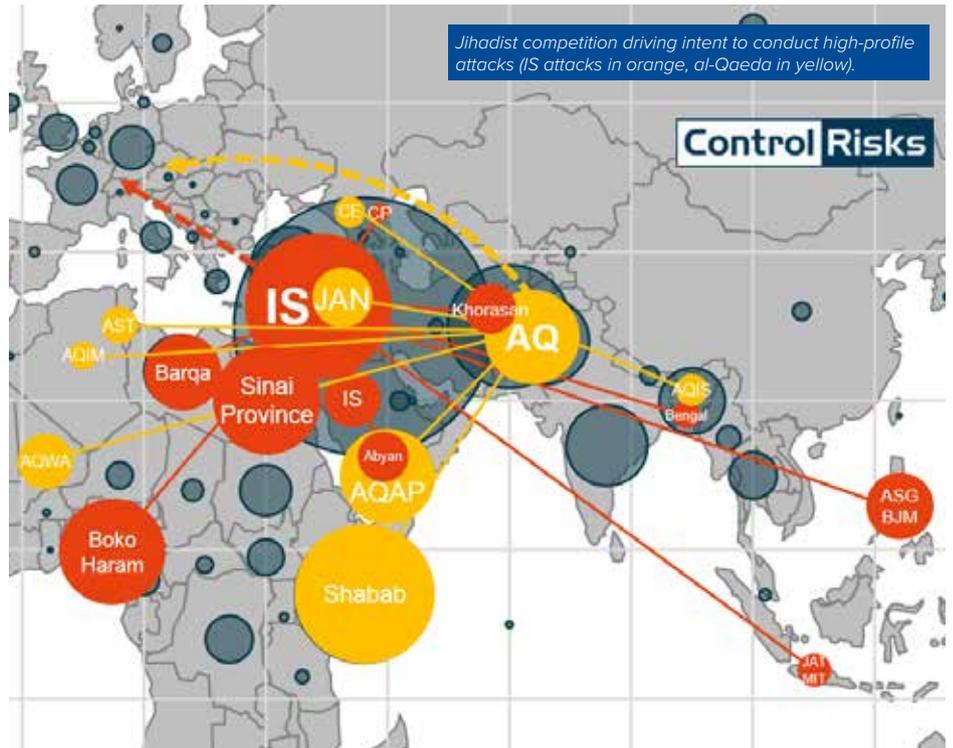
- Competition with al-Qaeda, which drives both to carry out higher profile attacks.
- The 'blowback' of foreign fighters from Syria to their home countries, including an estimated 5,000 from Western Europe of whom around 1,000 are from the UK.
- A constant daily output of incitement messages, in a wide variety of languages using social media, video, audio and print forms, and produced on the ground in several countries.

Updating the threat continued...

Globally from 2014 to 2015 there has been a fall in terrorist incidents; however in Europe they increased 9%. In terms of tactics, there was a trend towards attacks involving firearms, improvised weapons such as motor vehicles and knives, and publicity-generation for example through hostage-taking (as in Sydney). In answer to an audience question on chemical threats, he referred to IS's use of mustard agents in Syria, though it was not clear how transportable they might be, and the previous attempted production of Ricin in the UK.

While educational establishments were targeted in 5.5% of incidents in Western countries, he did not see UK universities as major targets, although it was possible that they might get caught up in a city centre attack.

In conclusion Jonathan predicted a 'two-tier' resurgence in high impact, high profile terrorism as seen in Paris and Istanbul, alongside the persistent threat of unpredictable, radicalised 'lone wolves'. These would prioritise soft targets and active shooter scenarios, potentially as part of a suicide operation.



BRITISH ENGINEERING SERVICES - KEEPING PLANT & EQUIPMENT SAFE AND LEGAL



ANDY KIDD
British Engineering Services,
Chief Engineer

Andy Kidd, BES's Chief Engineer, brought safety to life in a lively and surprisingly humorous talk, giving a detailed roundup of the legislation and practical issues that British Engineering Services' inspection regime covers.

Whereas product legislation (as in the CE mark) is produced by the European Commission and implemented by Member states, Health & Safety regulations exist here as purely UK legislation. The relevant laws are complex and include the Provision & Use of Work Equipment Regulations 1998 (PUWER), the Lifting Operations & Lifting Equipment Regulations 1998 (LOLER), the Pressure Systems Safety Regulations 2000 (PSSR), the Electricity at Work Regulations 1989 (EAWR) and the Control of Substances Hazardous to Health Regulations 2002 (COSHH).

Lifts and lifting equipment are a particular concern, and one in which BES are specialists. Andy pointed out that thorough examinations are required before equipment is put into service, after installation, periodically and whenever

circumstances occur which are liable to jeopardise safety. New regulations (BS EN 81-20 and BS EN 81-50) have recently been introduced requiring, amongst other things, refuge spaces in the pit at the base of the lift shaft and on the car top, as well as a control station in the pit. Users are able to continue with the earlier standards until August 2017.

Mr Kidd provided an example when a lift inspection averted catastrophic failure

when the vital securing nut for the traction sheave, which carries the weight of the lift's suspension ropes, was found lying loose on the roof of the lift car.

After covering the PSSR pressure regulations, he told of an autoclave which had only half its locking dogs in use and the pressure relief valve had been tampered with. Under seven times working pressure, the lid blew open; fortunately the hinges held and potential fatal damage was contained.



PICKING YOUR WAY THROUGH PREVENT



JO
ATTWOOLL
Universities
UK (UUK)

The implications of the government's Prevent agenda, and the new Counter-Terrorism and Security Act, are still being worked out by universities and colleges – and have some way to go. This was the theme of a presentation by Jo Attwooll of Universities UK (UUK) at UMAL's Spring Conference.

Although the Counter-Terrorism and Security Act received royal assent in February 2015, the new Prevent statutory duty was not implemented for universities until September 2015, several months later than other public bodies such as schools and prisons. Concerns about the Act's implications for freedom of speech and academic freedom, voiced loudly in the House of Lords and lobbied on by UUK, were behind the delay. Scotland has had its own enacting process, resulting in a different Guidance.

As a result, as well as requiring institutions to "have due regard to the need to prevent people from being drawn into terrorism", the Act also expects universities to "have particular regard to the duty to ensure freedom of speech" and "the importance of academic freedom". Drawing the right balance between these factors is still a grey area, and one of the main challenges that universities are facing in drawing up their own policies, Jo pointed out.

STARTING POINT

"The starting point is a risk assessment on how students might be drawn into terrorism, both violent and non-violent, though there the definition of the latter is quite woolly, which is a concern," she said. "The risk assessment is then used to develop action plans and policies". These will cover:

- Speakers, whether at academic or student events, or at third party meetings using university facilities
- IT policies, including the possible use of filtering
- Research, where students or academics are researching terrorism-related subject matter
- Pastoral support and chaplaincy including policies on faith facilities

Universities were required to submit an initial self-assessment to the Higher Education Funding Council for England (HEFCE) by January 2016. HEFCE will be working with universities to bring them up to speed.

CHALLENGES AND RISKS

"The requirements of the Act present challenges to universities in terms of operational activity, governance and leadership," Jo believes. "Not only does it need universities to bring on board academics and students, some of whom are opposed to the Prevent agenda, it also produces a lot of additional bureaucracy – despite the Government's hopes that it would not.

There are wider challenges too. No two institutions are the same, and they are large, open and diffuse communities. Universities do not wrap students in a bubble – they are independent adults living on and off campus."

The HEFCE is expected to publish a report in November stating how well universities are performing. It is not expected to 'name and shame', but universities can expect the media to pursue Freedom of Information requests on their Risk Assessments and policies.

Media-driven reputational damage is likely to be a major threat for universities that are behind in their compliance. Conversely, despite alarmist headlines about Vice-Chancellors potentially ending up in jail, the attitude of the government and its agencies is constructive.

The Department of Business, Innovation and Skills has had regional coordinators in place for the last two years as a source of advice and guidance. The HEFCE has commissioned training modules, now well in progress, covering risk assessments, developing action plans, policies on speakers, and governance.

The Safe Campus Communities website is a valuable resource, with guidance and case studies, and will be populated with further content over the next three to six months.

MORE LEGISLATION

"More government legislation is likely," said Jo, pointing to plans for an Extremism Bill in last year's Queen's Speech. "It will focus on speaker events only giving platforms to the 'right' people, restricting access to premises and stopping 'Trojan Horse'-style entryism. Further research will strengthen the evidence base on the way extremists work."

However controversy is likely to continue over the delicate balancing act with academic and speech freedoms, and what to do about non-violent extremism that is within the law.

For further advice, please look at www.safecampuscommunities.ac.uk



THE NEW PACKAGE TRAVEL DIRECTIVE: WHAT DOES IT MEAN FOR YOU?



LAURA
HALFHIDE

Associate,
Hill Dickinson LLP

The current Package Travel Regulations (the Regulations) are outdated and no longer reflect the manner in which travel services are presented to and purchased by travellers today. Although the Regulations derive from a European Directive, a lack of cohesive approach by member states as regards implementation of the current Directive has led to confusion amongst consumers, an imbalance of consumer rights and distorted competition within the travel industry not only as between member states but also between travel service providers.

The new Package Travel Directive (the new PTD), which is due to be fully implemented by July 2018, seeks to level the playing field within the industry. However, in doing so, will inadvertently affect a number of other non-typical travel service providers (for example colleges and universities) who, until now, may not have been subject to the packaged travel regime.

WARNING!

Notwithstanding that the ensuing changes will widen the scope of the packaged travel regime (as discussed further below), it is important to note that universities and colleges who already offer for sale a pre-arranged combination of more than one qualifying travel service for a total price may already be caught by the current Regulations.

THE SCOPE OF THE NEW PTD

The new PTD brings with it a wider definition of 'package' which will capture the traditional packaged arrangement (discussed above), but also most travel arrangements concluded at a single point of sale (the traditional online travel agent model) or for a single/inclusive price, as well as those arrangements that are advertised as a package or using a similar term, even where separate contracts between the consumer and the ultimate travel service providers are purported to be formed. The new definition will also capture click-through arrangements made through

linked online booking processes where the traveller's name, payment details and email address are transmitted from the first trader to the second within 24 hours.

The preamble to the new PTD purports to provide some relief to those 'not for profit' providers who offer packaged arrangements to only a limited group of travellers – i.e. their members, as opposed to the wider general public. That said relief from the scope of the regime is heavily restricted to those providers who do so 'occasionally' or per the preamble, not more than a 'few' times per year.

It seems likely therefore, that without any further guidance from regulators, colleges and universities who routinely offer out 'packaged' travel services to their members (i.e. in a manner that fulfils the new definition) will be caught by the new regime, to the extent that the travel services are put together in a manner consistent with the new definition. This means that, although perhaps not an intended consequence of the new PTD (and certainly not something that legislators have considered) universities and colleges offering field/research trips as part of an inclusive fee, are all likely to be caught by the new regime.

IF I'M CAUGHT – WHAT DOES THIS MEAN?

Under the current and new regimes, the organiser of the packaged arrangement is and will be primarily liable to the traveller for performance of the entire package, regardless of whether or not the individual travel services are carried out by an unconnected third party. Therefore, in addition to having to meet the strict information requirements prescribed by the relevant text, if you are the organiser this essentially means that you are financially liable to the traveller if anything should go wrong (unless an exception applies).

Whilst the enforcement of the new PTD will be left to member states and has yet to be determined in the UK, it is worth noting that under the current Regulations a failure to comply with the requirements of the Regulations may result in summary conviction or conviction in indictment to a fine. The consequences of not being fully prepared of the new regime are therefore serious.

SUMMARY

By way of summary (and by no means an exhaustive list) the four key points to note under the new PTD are:

- Prescribed pre-contract information;
- Minimum contractual terms;
- Primary liability for non-performance/lack of conformity – i.e. negligence of third party suppliers;
- Financial protection for entire package (through insurance, bonding or trust account).

TO DO LIST

- Prepare Standard form 'pre-contract' information sheet
- Standard booking terms and conditions
- Risk assessments/audit processes for third party suppliers
- Contractual indemnities with third party suppliers
- Contact UMAL – can they help with financial protection?



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