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Covernotes

Explaining issues that affect insurance

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Don't overlook machinery downtime risks

Whilst the UK has focused this year on who should be Prime Minister, it's another PM on which businesses reliant on machinery and equipment should perhaps concentrate. Predictive Maintenance (PM) is the pro-active response to the vast costs associated with machinery breakdown — the true extent of which is often overlooked.

PM is a strategic priority for around 70% of Fortune Global 500 companies.[1] They recognise machinery and equipment downtime costs impact their balance sheet. In 2022, and that unplanned downtime cost them 11% of annual turnover. Many strive to avoid unnecessary maintenance and expenditure on holding spare parts in stock.

Downtime is surrounded by negative impacts. Machinery breakdown wastes resources and erodes business performance.
The UK has a scarcity of resources for productivity growth and lags behind other countries. Machinery breakdown is a real obstacle to growth, when you consider that The Productivity Institute regards the efficient and effective use of resources as critical.[2]

Loss of revenue is also the inevitable outcome of production line shutdown. Wages are wasted, paying staff who cannot perform their roles. There are significant repair costs to absorb and the costs of emergency spare parts to factor in.

Then there is the risk attached to failure of delivering to customers on time, to meet both contractual obligations and expectations. This could lead to financial penalties, according to contractual terms, or a loss of business, if customers choose to source products elsewhere. Reputational damage is also a lesser-considered impact of machinery downtime.

The cost and incidence of downtime

Downtime costs are increasing sharply, with just one redundant hour costing between £1,700 and £7,500.[3] Stressed supply chains and inflation are responsible, as downtime periods are also lengthening, with many repairs harder to effect, due to the growing interdependence of pieces of equipment. Sourcing replacement parts last minute is also harder and finding specialists to repair machines challenging, as many experienced engineers have left the sector.

The problem is real. UK and Irish manufacturers spend, on average, 20 hours a week on unscheduled maintenance; and as 82% have had at least one unplanned downtime incident in the past three years.

The answer is to spot equipment ailments well in advance. This is the ethos of Predictive Maintenance, which utilises prognostics, to offer predictions and produce projections of a piece of equipment's Remaining Useful Life.

[1] https://assets.new.siemens.com/siemens/assets/api/uuid:3d606495-dbe0-43e4-80b1-d04e27ada920/dics-b10153-00-7600truecostofdowntime2022-144.pdf
[2] https://www.productivity.ac.uk/news/what-explains-the-uks-productivity-problem/#:~:text=The%20UK%20has%20experienced%20significantly,joined%2Dup%20policy%2Dmaking
[3] HSBEI 2456 DBAP24 (1).pdf – The importance of equipment breakdown insurance in an unpredictable world, downloadable from https://www.insurancehound.co.uk/business-management/risk-management/importance-equipment-breakdown-insurance-unpredictable-world-40255
[4] https://www.themanufacturer.com/articles/the-true-cost-of-downtime-a-view-from-the-engineer/

A robust and strategic approach to maintenance should back the basics of cleaning and lubrication – absolutely essential as 70% of technical failures stem from lubrication issues.[4] The strategy should also, however, be based on the firm foundations of regular inspections and the monitoring of data generated by intelligent equipment.

As usual you will need to comply with many legal inspections, control measures and maintenance requirements by law such as, Provision of Use of Work Equipment Regulations (PUWER), Lifting Operations and Lifting Equipment Regulations (LOLER) and Control of Substances Hazardous to Health (COSHH).

This puts a manufacturing or engineering team on the front foot, proactively scheduling maintenance, rather than reactively responding to breakdowns. Rejecting a run-to-fail mentality makes sense, when run-to-fail repair costs can be up to four times more than scheduled repair expenses.[5]

Human error and downtime

However, whilst PM can reduce downtime, breakdowns still occur. Human error is often the reason. An operator may overuse or incorrectly use or set up machinery. They may not address dirt or dust build up, and they could override machine controls and safety features. The human element adds much unpredictability to equipment operation.

With so many micro-electronics driving machinery, and the fragility and sensitivity of micro-circuits, there can be little or no evidence of physical damage prior to breakdown. Equipment may just react badly to something such as condensation, heat, humidity, shock, or vibration.

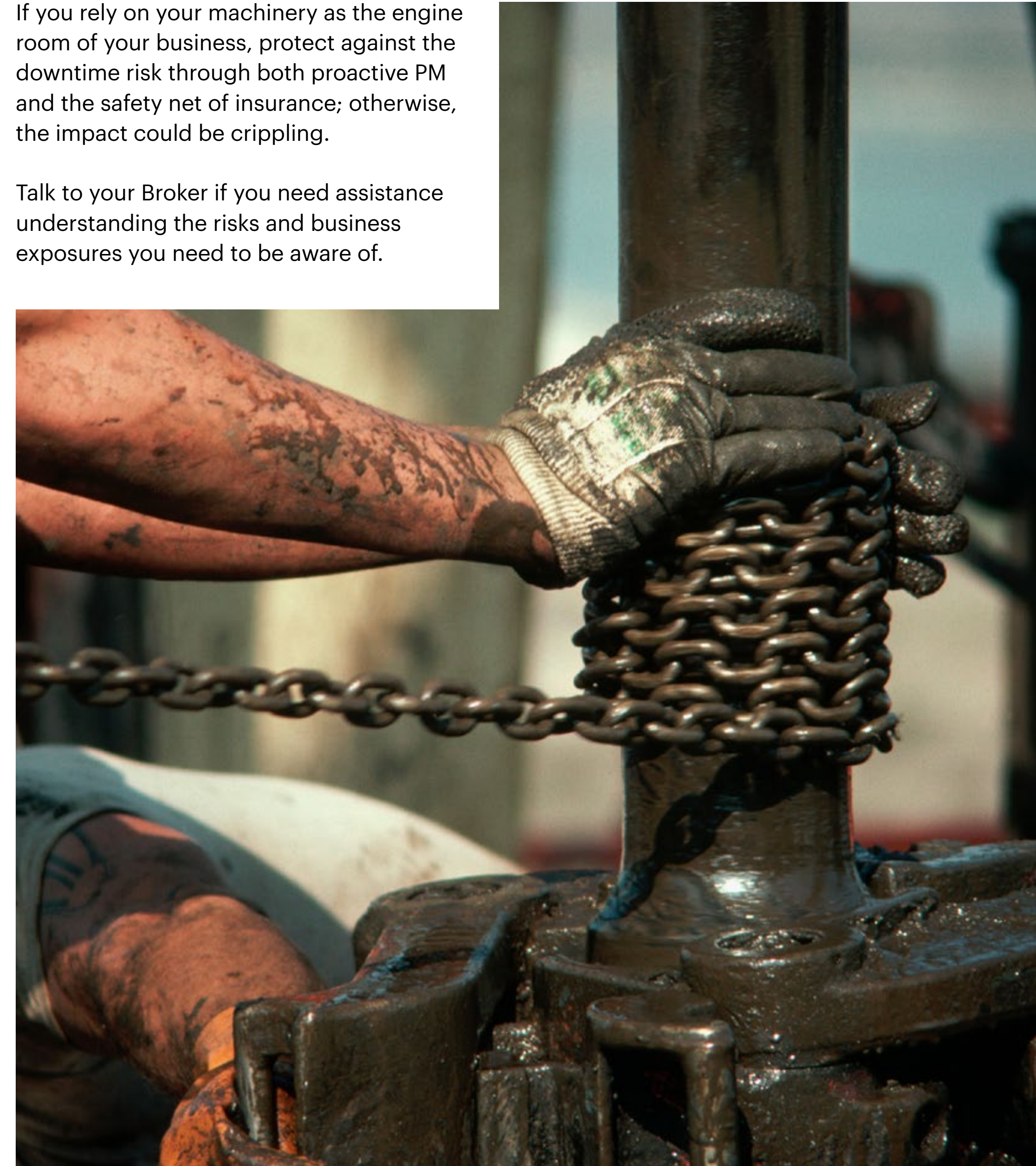
Most property insurance policies offer no cover for equipment breakdown, and only protects against damage caused by weather incidents or fire. An equipment breakdown insurance programme is required, as it will pick up the costs associated with downtime.

Putting this into context, two-thirds of small and medium-sized enterprises (SME's) say they could not survive more than three months if a catastrophic equipment failure occurred and prevented trading.[6] 48% also say they could not absorb the cost of essential equipment breakdown, and such reliance on equipment and machinery suggests that many businesses need extra protection, to cover the risks surrounding its failure.

With an equipment breakdown insurance programme, a firm can receive the financial reimbursement they require and replace their equipment, if necessary. They are also protected against costs and losses associated with business interruption, safeguarding the company finances, but also providing access to specialists who can rectify the issue.

If you rely on your machinery as the engine room of your business, protect against the downtime risk through both proactive PM and the safety net of insurance; otherwise, the impact could be crippling.

Talk to your Broker if you need assistance understanding the risks and business exposures you need to be aware of.



[5] https://www.forbes.com/sites/forbestechcouncil/2022/02/22/unplanned-downtime-costs-more-than-you-think/
[6] https://www.munichre.com/hsbeil/en/about-us/hsb-engineering-insurance/press-and-news/press-releases/2024/research-reveals-vulnerability-of-uk-smes-to-equipment-breakdown.html

4G and 5G: a fleet's only road ahead

Telematics have long been cited as a must-have for fleet operators wishing to understand and analyse their on-the-road performance and track vehicles 24/7. Less attention has been paid to what is driving the technology. Some users may not even consider that connectivity is fundamental to the performance of the installed tech.

This has to change, due to the '3G Sunset'. Mobile network operators have either already turned off, or are preparing to switch off, their 3G masts, to support faster 4G and 5G options to the full. Much of this communication has been targeted at mobile phone users, but what about those fleets still running telematic devices operating on 3G?

Vodafone and EE performed their switch-off in January 2024; Three is turning off 3G by the end of 2024 and 02's switch off will be in 2025.[1]

It is not an overnight process; those operating 3G telematics devices on the networks that have already moved away from 3G may only just be beginning to note sluggishness.

Video uploads, from in-vehicle technology devices to remote servers, may have been problematic. Some operators may have lost access to vehicle tracking, during certain parts of a journey.[2]

This is not just a UK issue, with other countries going through the 3G switch off, so fleets with international route operations may also discover roaming issues.

Currently, things may just be frustrating, but the key thing is to act now and move to devices operating on 4G or 5G. Telematics devices are real assets, providing useful evidence relating to good risk management and driver behaviours. If this evidence cannot be accessed, there are holes in the potential defence of a driver's action within a specific incident.

It also removes the audit trail. An operator may be unable to demonstrate that a driver involved in a road traffic incident, had always previously had a good driving record, exhibiting no poor driving behaviours.

Furthermore, if a vehicle is stolen, a tracking device reliant on 3G may not be able to track its location, making the device of little or no use.

A quick turnaround of evidence and videos is also often the key to claims cost containment. If an operator cannot access this material quickly – or at all – their insurer's ability to keep control of a claim can diminish fast. The delay can allow a third party to add extra costs into the claim, such as credit hire vehicles or medical treatment. What should have been a relatively small claim can suddenly snowball to an eye-watering sum and, ultimately, this negatively impacts on the operator's insurance premiums.

Whilst devices may be able to operate on a 2G network not yet switched off, 2G does not support all functions that the 3G network can handle, including text messages and calls, as 2G will also no longer exist as of 2033.

It's time to get your telematics house in order, if you've been stranded by the 3G switch off. Seek our advice relating to alternative telematics options today.

[1] https://www.ofcom.org.uk/phones-and-broadband/coverage-and-speeds/3g-switch-off/
[2] https://vuegroup.org/3g-sunset-what-will-the-impact-be-on-your-fleet/

Take care over ESG claims

ESG (Environmental, Social and Governance) has become a corporate buzzword, with ESG strategies embraced by organisations wishing to communicate across-the-board excellence in social and environmental responsibility.

Impressing stakeholders, and those managing tender processes, with examples of ESG practice has become an attractive proposition – to the extent that some have over-egged the pudding, making false and unsubstantiated claims about their activities, products and services.

To date, this sort of deceit has not been punished to any great extent. However, lawsuits are now emerging in the USA, and it is only a matter of time before the same sort of legal action appears here in the UK.[1]

The sectors so far impacted by the lawsuits have been energy, plastics, chemical, food and agriculture, mining, finance, travel, FMCG, transport and aviation, fashion and textiles, and professional services.

Regulation is also increasing, and there has already been some action taken against 'greenwashing'. The Competition and Markets Authority (CMA) has investigated the eco-claims of leading fashion brands and retailers and, in a relatively quick period of time, secured undertakings from these brands with regard to future marketing, having found that their claims could not be substantiated.

These retailers now have to be unswervingly honest about their assertions and not use misleading 'natural' imagery that implies environmental friendliness. A reputational hit has been taken by these brands, even though the CMA has no financial penalties to levy. That could change if the Digital Markets, Competition and Consumer Bill is passed, with significant penalties of up to 10% of turnover, and could be imposed on future offenders.[2]

Now there is other legislation monitoring statements relating to ESG, such as the Companies (Strategic report) (Climate-related Financial Disclosure) Regulations 2022.[3]

In addition, the Financial Conduct Authority has instituted a package of measures (AGR) to reduce greenwashing with regard to some investment products.[4]

Company directors need to get on top of this situation now to be absolutely certain that ESG claims can be substantiated. The whole area of litigation against directors who run organisations that engage in 'greenwashing' is now one to beware, as part of corporate risk management. Shareholder class actions could easily emerge and due diligence is essential.

The drive to rapidly launch green tech products into the market might also have been too rapid, making product liability claims more likely in this space. There is also the potential for more environmental liability cases to emerge, if products marketed as being 'environmentally friendly' prove to actually cause environmental damage.

Companies must embed responsible principles into their strategies and honestly communicate ESG-related actions, ensuring transparency and truthfulness underpins all. Directors should take their duty of care with regard to this aspect of business extremely seriously, and show a deep interest in the initiatives being cited as shining examples of ESG policy.

If challenged and needing to mount a defence, they will also need a Directors & Officers insurance policy that can help pull accurate and mitigating evidence together, and fund the cost of legal defence services. Talk to us about this cover – and others surrounding the ESG agenda — today.

[1] 2024 06 07 – ESG Litigation & Regulation presentation to WTW — FINAL.pdf
[2] https://www.kingsleynapley.co.uk/insights/blogs/criminal-law-blog/greenwashing-enforcement-is-not-going-away
[3] https://www.legislation.gov.uk/uksi/2022/31/contents/made
[4] https://www.fca.org.uk/publications/finalised-guidance/fg24-3-finalised-non-handbook-guidance-anti-greenwashing-rule

MLP or D&O insurance? Which do you need?

Business owners face a wide variety of risks evolving from both their duty of care and the regulatory landscape. The risk posed by regulatory or legal action is very real, with the potential for significant financial losses emanating from the costs of hefty legal fees and representation, as well as fines or compensation payments, is significant.

This type of loss can affect all sizes of business. Luckily, any business or director can protect their entity, or themselves, against such hits to the balance sheet, or personal assets, in two ways – through a Management Liability Policy (MLP) or a Directors & Officers (D&O) insurance policy. So what is the difference and which do you need?

The answer may depend on where your entity lies within the overall business spectrum. MLP insurance is typically more suited to Small and Medium Enterprises (SMEs), ranging from a micro-sized business to one with a £50m turnover.

An SME's director is often also the business owner, making it preferable for them to have MLP protection for their company or entity. In contrast, D&O insurance protects individuals and the personal assets of individuals who have a responsibility as a director or officer. It is important to note that, as most claims are brought against the entity, the MLP cover does have more exclusions for the company legal liability cover than a D&O policy does. There is generally, however, valuable cover for health and safety investigations.[1]

MLP typically offers more benefits than D&O insurance. For instance, it can allow a business to progress or defend cases relating to breaches of restrictive covenants, or provide PR assistance, if the business's reputation needs managing.[2] It may protect a director embroiled in a dispute through their external charity work, and can offer provide legal assistance during an HMRC tax investigation, along with protection against unpaid tax liabilities.

Other MLP benefits might include employee dishonesty cover, to protect against losses incurred through employee theft, or protection against identity theft, or losses incurred through the dishonest electronic transfer of funds.

This greater focus on day-to-day risks, including employment disputes, is something that a Directors & Officers policy may not do. This is not to say, however, that a Directors & Officers policy is not right for some SMEs; it depends on the business transacted, modes of working and an array of factors.

Directors & Officers insurance is ideal for those whose personal assets could be in jeopardy, if a stakeholder or regulator pursued an action against one individual for negligence or wrongdoing. If the company will not provide the director with indemnity, or it does not have a company legal liability insurance policy in place, a D&O policy will offer legal representation to the individuals and provide a means to pay claims. D&O protection also allows a director to focus on the duties and responsibilities at hand, rather than being distracted by trying to find funds to defend an action that could present a risk to business reputation and result in financial distress.

The best way to steer yourself towards the right insurance protection is to consult with your insurance broker, who can analyse your situation and offer the best advice. To discover whether you should be protecting your business or assets with either MLP or D&O cover, talk to us today.

[1] Information supplied by Chubb
[2] Information supplied by Custodian Insurance

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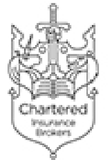

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