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The Policyholder Review 2026

Property Damage and Business Interruption

Property Damage and Business Interruption

James Breese and Zara Okereafor

Foreword

Over five years on from the start of the pandemic, Covid-19 business interruption insurance claims continue to feature prominently in the courts of England and Wales. Since March 2020, 140 Covid-19 business interruption insurance claims have been issued in the courts. Of those, 65% remain active. 2025 provided more resolutions of Covid-19 business interruption insurance claims than in prior years with seven settlements, one withdrawn case and one judgment. On one view, you would expect to see more resolutions with the passage of time. On the other, these settlements reflect a) the reducing number of the issues in dispute across these claims given the extent of litigation that has now been through the courts and arbitral tribunals; and b) a softening in the market generally this year in relation to these claims.

The softening is unsurprising given the sheer volume of litigation in this area. That litigation has provided helpful clarifications for both sides of the market for difficult construction issues across a variety of wordings.

The end may be in sight for Covid-19 business interruption insurance litigation, particularly with limitation becoming a focus in early 2026, along with the Supreme Court's determination on the treatment of furlough payments in these claims. It will be an exciting start to 2026 in that regard, but we may then start to see these disputes tail off, or at least not require further litigation. However, readers with an eye for detail will appreciate that this is far from the first time that we have made that statement.

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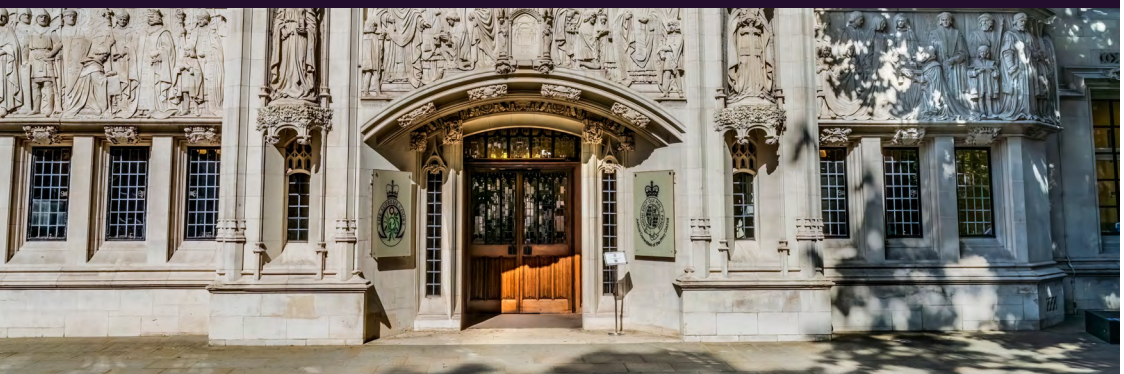

Key 2025 business interruption claim developments

There have been various decisions in *Bath Racecourse Co Ltd & Ors v (1) Liberty Mutual Insurance Europe SE (2) Allianz Insurance Plc Ltd (3) Aviva Insurance Ltd*. Those decisions concern the scope and application of indemnity limits within a composite policy structure, how an "any one loss" wording is to operate and the treatment of furlough payments received by the insureds from the UK government.

Background

Bath Racecourse Co Ltd is one of 22 claimants within the Arena Racing Corporation Ltd. The group collectively owned and operated multiple racecourses, greyhound tracks, golf clubs, hotels and a pub at various locations in England and Wales. These were demonstrably affected by the actions taken by the UK government, the British Horseracing Authority ("BHA") and the Greyhound Board of Great Britain ("GBGB") in response to Covid-19.

The claimants had the benefit of a composite policy and a Denial of Access cover with a £2.5 million sub-limit of indemnity that was available for "any one loss" and would respond to the actions taken by the government or other "competent authorities".

The core contentious issues were:

1. Whether the BHA and GBGB are "competent authorities" within the meaning of this bespoke Bluefin Sport wording.
2. Whether the claimants' composite policy of insurance entitles each separate insured entity to its own limits and sub-limits of indemnity.
3. Whether the "any one loss" wording goes further and entitles each separate insured premises to its own limits and sub-limits of indemnity in circumstances where some insured entities own and operate separate businesses, eg a racecourse and a separate hotel and/or golf course and/or pub.
4. Whether the £2.5 million Denial of Access sub-limit is additionally available separately for each materially different government action, and, if so, which.
5. Whether insurers are to receive credit for the furlough payments the claimants received from the UK government by deducting them from the indemnity owed.

Composite policy limits: The Court of Appeal decision in February 2025

Bath Racecourse succeeded at first instance in 2024, and the Court of Appeal dismissed insurers' appeals in 2025. The Court of Appeal recognised that a composite policy consists of one overarching document containing separate contracts for each insured where a group is insured, ie parent and subsidiaries. Consequently, the policy terms in a composite policy are to be read as applying separately to each policyholder, reflecting what a reasonable policyholder would anticipate, unless there is express wording in the policy that varies that position. While the Court of Appeal said there is no "presumption", in practice it is clear that a composite policy will be approached from the starting position that limits and sub-limits of indemnity are available separately to each insured entity unless there is clear wording in the policy that provides it operates in a different way.

The Court of Appeal was clear that a reasonable policyholder would expect a composite policy to operate in this way. If insurers intended for that not to be the case, the Court of Appeal would expect to see express provisions in the policy confirming that limits and sub-limits operate on an aggregate (or some other) basis. In that case, a separate provision would be required to explain how competing claims between insureds within the same group would then be dealt with.

While this decision is unsurprising to us on the policyholder side of the market, given the decisions that already exist on this issue, including at appellate level, it is nevertheless helpful clarification for the market.

Policyholders and their advisers should carefully review the language in any composite policy being purchased to make sure that it continues to provide the breadth of cover required. We can foresee this being relevant for all commercial lines of insurance, including, for example, where cyber cover is required for an entire group. If there is a large systemic event affecting that group, it may be catastrophic to find that any coverage for potentially large losses could then be aggregated across the group.

Furlough: the Court of Appeal decision in February 2025

The Court of Appeal found against policyholders and agreed with the High Court judge's decision in *Stonegate* in 2022, concluding that insurers were entitled to deduct furlough payments from any indemnity owed. Favouring insurers, the Court of Appeal concluded: "The bottom line at the end of the day is that the insureds did not have to bear the expenses of the wages bill and to that extent, the charges or expenses of the business were reduced."

This issue could be worth billions to insurers, and furlough is estimated to have cost the government (or the taxpayer) in the region of £70 billion.

Policyholders argue that:

a. Furlough payments did not cause the expenses of the business to "cease" or "reduce" within the meaning of the policies.

b. The intention of the UK government's furlough scheme was to support businesses and save jobs, not to subsidise insurers. Policyholders argue that insurers received a 'windfall' from taxpayer funds by claiming the benefit of the furlough payments.

c. The furlough sums received from the UK government were gifts that should not be considered in the indemnity calculation.

d. The furlough payments were not caused by the insured peril. Those payments were received regardless.

In July 2025, the Supreme Court granted *Bath Racecourse & Ors*, as lead matter, permission to appeal this issue, determining that it raises an arguable point of law of public importance. The Supreme Court acknowledges that policyholders have an arguable case.

For policyholders, this represents a final opportunity to challenge the scope of the furlough deductions. It is therefore a critical issue that will be heard in February 2026.

Aggregation and "any one loss": the Commercial Court decision in July 2025

In July 2025, the Commercial Court handed down a further judgment in *Bath Racecourse* in which it addressed:

1. The meaning of "competent authority".
2. How the "any one loss" wording operates.
3. How many materially different government actions there may be.
4. The operation of the arbitration clause in the policy.

The meaning of "competent authority"

One of the key issues before the Commercial Court was whether the BHA and GBGB could be treated as "competent authorities" under the denial of access extension. The court confirmed that they could, explaining that, although both are private bodies, their suspension directives carried regulatory force extending beyond ordinary commercial activity. In doing so, the court clarified that "authority" does not necessarily mean a public or state body, confirming that industry regulators can trigger Non-Damage Denial of Access (NDDA) cover where their directions materially affect business operations.

The operation of "any one loss"

The court was asked to decide whether the "any one loss" sub-limit of indemnity applied separately to each *Bath Racecourse* claimant individually per relevant measure or action, per premises and/or per affected race. The court confirmed that the sub-limit applies per materially different action and per insured premises or facility (but not per affected race), allowing separate recoverable losses for each intervention and each premises or facility. This means that every materially different action can trigger a fresh sub-limit of indemnity, and that sub-limit is available separately to each premises operated by each insured entity.

For policyholders with multiple premises or facilities, this decision provides clarity on how sub-limits of indemnity operate. The determination in relation to this "any one loss" wording can materially increase potential recoveries for insured groups with multiple premises or facilities that experienced distinct interruptions at different locations as a result of materially different actions. While earlier decisions, such as *Various Eateries, Greggs and Stonegate*, addressed aggregation issues under different policy wordings, crucially, this decision is positive for policyholders with an "any one loss" wording.

Materially different actions

So, what constitutes a materially different action? The court examined measures or actions that imposed, or materially increased, restrictions on the use of the *Bath Racecourse* claimants' facilities, concluding that "there would only be a new risk trigger, and a fresh loss calculation, if the action of the authority imposed an **increased** restriction". Measures that merely maintained existing limitations or reduced them were not treated as triggering a fresh loss. Examples of materially different actions included instructions from the government and from the BHA and GBGB, as competent authorities, such as the prime minister's 16 March 2020 stay-at-home instruction, the BHA's closure instruction from 18 March 2020, and subsequent changes to regional tier restrictions later in 2020. By contrast, the court confirmed that instructions allowing racing behind closed doors after closure did not constitute a materially different action.

The decision is being appealed to the Court of Appeal, so more on this to come in 2026.

The operation of the arbitration clause in the policy

The court confirmed that the policy's arbitration clause applies only after its preconditions are met; until then, either party may pursue court proceedings. Insurers cannot require claims to pause after liability issues are resolved for a separate arbitration to follow. The *Bath Racecourse* claimants were entitled to seek payment of the indemnity under the policy, and the clause could not block the court from providing a final determination.

Since judgment was handed down in July 2025, the claimants have been granted permission to appeal the finding in relation to what constitutes a materially different government action, and insurers have been granted permission to appeal the finding in relation to the application of the "any one loss" mechanism.

Closed disease lists: Carbis Bay Hotel v AIG (2025)

In the broader landscape of Covid-19 business interruption litigation, the decision in *Carbis Bay Hotel v AIG* confirms the scope of coverage in closed disease lists. In this case, the court considered a closed list of 33 specified diseases within an infectious disease extension, which provided cover for business interruption or interference as a result of closure due to "any human infectious or human contagious Disease (excluding Acquired Immune Deficiency Syndrome [AIDS] or an AIDS-related condition)". The term "Infectious Diseases" was not defined, whereas "Disease" was defined by reference to a closed list of 33 diseases.

The court clarified that closed disease lists must be interpreted strictly and held that insurers were not obliged to pay any indemnity under that clause because Covid-19 did not feature on that list. While this narrows the scope of cover in certain cases, it nonetheless provides useful clarification of the boundaries of disease clauses and is consistent with the earlier decision in *Rockcliffe Hall v Travelers*.

Reinsurance developments

The Court of Appeal handed down judgment in *UnipolSai Assicurazioni SpA v Covéa Insurance Plc* in late 2024, clarifying key issues in excess of loss reinsurance disputes arising from the Covid-19 pandemic. Covéa had provided cover to policyholders such as nurseries and childcare facilities affected by government-mandated closures under its standard 'NurseryCare' policy wording, which included non-damage business interruption cover triggered by enforced closures. Covéa sought recovery from its reinsurer, UnipolSai, under a property catastrophe excess of loss reinsurance policy.

The dispute arose after UnipolSai declined cover on two grounds. The first ground concerned whether the Covid-19 pandemic constituted a "catastrophe" under the policy, with UnipolSai arguing it was merely a prolonged "state of affairs" and Covéa asserting that it was a single catastrophic occurrence. This was a key issue because UnipolSai agreed to indemnify Covea under the policy for each and every "Loss Occurrence", defined as "all individual losses arising out of and directly occasioned by one catastrophe". If the pandemic were not considered a catastrophe and merely a prolonged "state of affairs", Covéa would not be entitled to recover its losses, which were significant. The second ground related to the 168-hour "hours clause", which limited the measurement period for losses. UnipolSai contended that only losses occurring within this window were recoverable, potentially excluding significant losses that unfolded over a longer period.

An arbitration tribunal had previously ruled in favour of Covéa. The Court of Appeal confirmed this decision by clarifying that the Covid-19 pandemic, despite its extended duration, constituted a single catastrophic occurrence under the policy, establishing that large-scale, sustained events can trigger coverage. Importantly, the Court of Appeal also clarified that UnipolSai's interpretation was too narrow: losses that first occur within the 168-hour period can continue beyond it and still be treated as part of the same loss. This confirms the correct interpretation of the clause, which does not unduly restrict coverage where losses unfold over an extended timeframe, providing practical guidance for calculating and aggregating claims.

For a detailed analysis of the decision and further commentary, see our earlier article.

Another reinsurance dispute that may provide clarity on reinsurance cover for Covid-19 business interruption losses is the case of *WRBC Corporate Member Ltd v AXA XL Syndicate Ltd and others* concerning multi-line excess of loss treaties. The claimant, WRBC Corporate Member, seeks indemnity from multiple reinsurers for contingency losses arising from the cancellation or postponement of insured events (such as trade shows, conferences and other organised events) in the UK and the US during 2020-2021. The central issues include whether losses across multiple events and jurisdictions can be aggregated, how key terms such as "any one event" should be interpreted in the treaties and how reinsurance interacts with settlements at the primary insurance level. A preliminary issue hearing was refused in June 2025, and the full trial is scheduled for January 2026.

The outcome may provide important guidance on the treatment of complex, multi-layered Covid-19 claims under reinsurance agreements.

The journey of Covid-19-related insurance litigation is illustrated in this timeline, in which we have analysed all the key decisions.

Covid-19 and business interruption: a timeline

15 September 2020

Divisional Court hands down first instance judgment following Financial Conduct Authority's test case. Partial success for policyholders. Leapfrog appeal to the Supreme Court is ordered.

15 October 2020

Commercial Court hands down judgment in *TKC v Allianz*, in which it was found that Covid-19 did not cause loss of property.

15 January 2021

Supreme Court finds in favour of policyholders in the FCA test case; provides significant ruling on causation that paves the way for further wordings to respond to cover Covid-19 losses.

25 February 2021

Judgment handed down in *Rockliffe Hall v Travelers* in which Covid-19 was found not to be 'plague', such that the specified disease cover would not respond as it expressly covers certain diseases, of which Covid-19 was not one.

10 September 2021

Lord Mance hands down public award in China Taiping Arbitration; considers that the Supreme Court's findings on causation may have a wider application than just the disease wordings considered by the Supreme Court.

25 February 2022

Judgment handed down in *Corbin & King v Axa*. Mrs Justice Cockerill finds in favour of policyholders on coverage and aggregation. Policyholders with a non-damage denial of access wording entitled to recover on the basis of the Supreme Court's findings on causation. Their composite policy and 'any one claim' wording entitle the policyholders to separate limits of indemnity per insured entity and per premises. Axa did not appeal.

17 October 2022

First instance judgments in *Stonegate v MS Amlin & Ors, Greggs v Zurich and Various Eateries v Allianz*. Court finds that losses do not aggregate to a single occurrence, paving the way for policyholders to recover multiple limits of indemnity; but denies policyholders a 'per premises' recovery. Mr Justice Butcher considered that insurers are entitled to deduct from indemnity the 'furlough' payments that policyholders received from the government.

26 May 2023

Aggregation decision in *Pizza Express v Liberty Mutual*. Pizza Express was not entitled to a per premises recovery due to the construction of its 'occurrence'-based wording. Permission to appeal was denied.

16 June 2023

Commercial Court rules in favour of policyholders in 'At the Premises' test case, *London International Exhibition Centre Plc v RSA & Ors*. Mr Justice Butcher found that the Supreme Court's ruling on causation in the FCA test case also applies to this additional category of disease wordings.

24 October 2023

Further test case, *Gatwick Investments*, including other groups of policyholders such as *Liberty Retail* and Bath Racecourse in which policyholders sought to argue that the Supreme Court's findings on causation can also extend to Liberty Mutual's prevention of access (non damage) wording, and that multiple limits were available pursuant to composite policies of insurance.

November 2023

Stonegate settles its dispute with MS Amlin & Ors shortly before appeal is to be heard. This leaves first instance decision on furlough undisturbed, and which favours insurers.

28 November 2023

Various Eateries v Allianz appeal is heard. The furlough issue is not live, but Court of Appeal is asked to reconsider the key aggregation issues; namely whether losses aggregate to a single occurrence or whether multiple limits of indemnity are available.

16 January 2024

Court of Appeal hands down judgment in *Various Eateries v Allianz*. All appeals and cross-appeals dismissed.

26 January 2024

Court rules in favour of policyholders on the key issues in the *Gatwick Investments* test case. However, furlough is again decided in favour of insurers as Mr Justice Butcher's judgment in Stonegate is followed. Permission to appeal is granted on most issues including furlough.

26 January 2024

Court finds against International Entertainment Holdings in its claim against Allianz under its 'policing authority' wording. The government is not considered to be a 'policing authority' so the policyholder is not entitled to cover.

31 January 2024

Sir Richard Aikens hands down public arbitration award in relation to *Salon Gold policyholders v Canopius*. Supreme Court's analysis on causation against applied in favour of policyholders with a non-damage denial of access wording, and which responds to an insured peril within the 'vicinity' of the premises.

19 February 2024

Mrs Justice Cockerill grants Flat Iron and Wahaca summary judgment against QIC in relation to its non-damage denial of access wording that responds to a danger within the 'immediate vicinity'. Permission to appeal granted but both policyholders settled their disputes later in 2024.

30 April 2024

Court of Appeal says no cover for Covid-19 losses under damaged-based policy wording in *Bellini v Brit*.

6 September 2024

Court of Appeal upholds 'At the Premises' ruling in favour of policyholders.

30 September 2024

Court of Appeal determines pandemic was a "catastrophe" under reinsurance contract.

28 October 2024

Court of Appeal determines Covid-19 is an "incident likely to endanger life" in *International Entertainment Holdings Ltd v Allianz*.

December 2024

Supreme Court denies insurers permission to appeal in 'At the Premises' test case, meaning the Court of Appeal's policyholder favourable decision is final.

21 – 24 January 2025

Bath Racecourse defends insurers' appeals in relation to Commercial Court ruling in favour of policyholders in relation to the 'composite policy issue', ie that policyholders with multiple insured entities under a composite policy are entitled to their own limits of indemnity. Causation also again the subject of appeal.

28 – 29 January 2025

Bath Racecourse appeals the insurer-favourable decision on furlough. This is the first time that the Court of Appeal is asked to examine the issue.

21 February 2025

Bath Racecourse Court of Appeal confirms that under a composite policy, each insured entity is entitled to its own separate limits of indemnity.

Court of Appeal upholds the decision on furlough, concluding insurers are entitled to deduct furlough payments from indemnity calculations.

9 May 2025

Commercial Court in *Carbis Bay Hotel v AIG* provides clarity on the scope of coverage in closed disease lists determining that closed lists must be interpreted strictly.

2 July 2025

Supreme Court grants policyholders permission to appeal on furlough issue in *Bath Racecourse* following the insurer-friendly Court of Appeal decision in February 2025

22 July 2025

Commercial Court hands down judgment in *Bath Racecourse* on outstanding issues and confirms that decisions made by sporting authorities were to be regarded as decisions of a "competent authority". Additionally, the insureds' "any one loss" wording provides separate limits sub-limits of indemnity for each insured premises or facility.

Property damage update

The Supreme Court's refusal in April 2025 to grant permission to appeal in *Sky UK Ltd v Riverstone Managing Agency* confirms the first-instance and Court of Appeal rulings as leading authority on property damage claims under Construction All Risk (CAR) policies. The Court of Appeal had previously held that physical damage giving rise to deterioration over time remains recoverable, even where the progressive nature of the loss extends beyond the initial defect. This judgment provides clarity for policyholders by affirming that insurers cannot confine coverage solely to the immediate point of impact and that consequential deterioration and associated reinstatement costs necessary to restore the property to its pre-loss condition may properly fall within the scope of cover.

Further detailed analysis of *Sky UK Ltd v Riverstone Managing Agency* and its implications for CAR policies, reinstatement obligations and defect exclusions is provided in the 'Construction' chapter.

Looking ahead to 2026

In January 2026, we will have the trial in *WRBC*, which will provide further useful commentary on the treatment of these issues in reinsurance disputes.

Next up, the Supreme Court will hear the *Bath Racecourse* appeal in February 2026 to address with finality the position regarding furlough deductions. The issue is of exceptional financial significance. For insureds, this appeal represents the final opportunity to overturn the position on furlough and ensure those sums are recovered via their business interruption claims and not handed to insurers for the benefit of their balance sheets.

The longer it takes for Covid-19 business interruption insurance disputes to resolve, the more likely it is that we will eventually have a decision on section 13A of the Insurance Act 2015 in the context of Covid-19. This is particularly the case where we have seen a rise in insolvencies in the years following Covid-19. The facts underlying those insolvencies, including unpaid Covid-19 business interruption claims, may support a section 13A claim.

Limitation will be a key driver for developments in early 2026, with the six-year anniversary of the pandemic approaching in March 2026. Policyholders may be under pressure to issue proceedings on unresolved or underpaid claims in the absence of any agreement with insurers or FCA intervention regarding the limitation date.

Policyholders who have been awaiting further developments are encouraged to revisit their Covid-19 coverage positions urgently, reassess prior coverage denials or decisions not to pursue a claim in light of evolving case law, and obtain updated legal advice. Brokers are also urged to support their policyholders in this regard to avoid being criticised if legitimate but dormant Covid-19 claims become time-barred due to limitation. Policyholders may not be on top of the extensive developments in the past six years, and the position may have changed demonstrably. Inaction is unlikely to be a credible defence for a policyholder losing the opportunity to realise potentially substantial assets.

From ‘Die Hard’ to deadly hacks: When cyber threats get physical

Lockton

Back in 2007, few insurance professionals would have looked to Bruce Willis’s Die Hard franchise for industry insight, perhaps save for the importance of purchasing broad active assailant and denial of access cover when looking to insure Nakatomi Plaza. With Bruce limbering up for his fourth and penultimate outing in ‘Live Free or Die Hard’ at the arguably over-ripe age of 52, some cynical detractors suggested that there were no threats left for John McClane to face. Why, John had already blown his way through an international band of terrorists, a treacherous US special forces unit, a Colombian drug lord and, latterly, a team of East German mercenaries. They said there were no threats left. They were wrong. In ‘Live Free or Die Hard’, John McClane had to save the world from… nerdy computer hackers.

Those watching John avoid certain death, repeatedly, were treated to a storyline in which the primary villain, Thomas Gabriel, launched an attack on US computer infrastructure. This cyber event – and we can assure you, it was an ‘event’ – led to more than a few explosions and myriad destruction. As exciting as this was for the audience, experts were quick to point out that while Gabriel’s choice of targets was realistic (oil refineries, power stations, military infrastructure, etc.), the prospect of a hacker causing actual physical damage was something reserved for the writers’ room. It couldn’t happen in the real world, they said. Again, they were wrong.

Just three years after ‘Live Free or Die Hard’ had achieved surprisingly good results at the box office, young programmer Sergey Ulasen was sitting at his desk at VirusBlokAda, a local anti-virus vendor in Belarus. A team leader and experienced threat analyst, Sergey was used to examining the code of the most serious malware threats reported by the firm’s customers. However, this day was to present a particularly unusual challenge. Contacted by his technical support team to assist an Iranian client whose computers were repeatedly crashing, he began to review the preliminary system scan reports.

“My very first impression was that the anomalies found were due to some Windows misconfiguration or were the result of a conflict between installed applications,” says Sergey. But soon, after further analysis with colleagues, he realised “this malware was a fearsome beast with nothing else like it in the world”. What Sergey had found was Stuxnet, the first known computer virus designed specifically with the objective of causing catastrophic property damage.

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Stuxnet, a highly sophisticated computer worm, was found, under analysis by some of the world’s leading cyber threat specialists, to be directed at supervisory control and data acquisition (SCADA) systems, specifically Siemens Step 7 PLCs (Programmable Logic Controllers). The purported target was the notorious Iranian nuclear facility in Natanz, buried deep underground and thought to be Iran’s primary uranium enrichment facility (now supposedly destroyed by US airstrikes in June 2025).

It was thought that Iran used stolen Siemens PLCs to control the centrifuges that played a key role in the enrichment process. Stuxnet was specifically designed to cause these centrifuges to speed up and slow down to levels beyond their operating capacity, reportedly destroying over 1,000 devices and reducing Iran’s enrichment capacity by around 10–20%. Found to contain four separate ‘zero-day’ exploits, vulnerabilities in a computer’s code of which even the developer is unaware, along with two stolen digital certificates used to guarantee deployment safety, Kaspersky Lab (a leading global cyber security organisation) concluded that Stuxnet could only have been conducted “with nation-state support”. Neither the US nor Israel have ever accepted any involvement, despite numerous leaks and anonymous sources suggesting otherwise.

Stuxnet was only the beginning. Further evidence of the risk of cyber-related property damage emerged in 2014 from a less widely reported attack on an unnamed German steel mill. The details of this attack, kept private for security reasons and addressed only in a report by the Bundesamt für Sicherheit in der Informationstechnik (BSI), Germany’s Federal Office for Information Security, suggest threat actors had gained access using a spear phishing attack, managing to stop a blast furnace from shutting down and causing massive resulting physical damage.

In December 2017, it was reported that Triton, malicious code apparently created by a state entity, had been discovered in the safety systems of a Saudi power station. Attacking the plant's safety instrumented systems (SIS), effectively the last defence against industrial accidents, reports suggested that the attack had caused the power station to go offline in June 2017. Further examination suggested that a flaw in the code had allowed for quick detection. However, the threat actors could have used the malware to cause explosions or the release of toxic hydrogen sulphide gas. One investigator noted worryingly: "Even with Stuxnet and other malware, there was never a blatant, flat-out intent to hurt people."

Further examples of the potential for cyber-attacks to lead to physical damage are available, but it is reasonable to say that for corporates, this risk is still considered to be in its infancy. Physical damage resulting from a cyber-attack is generally excluded in property damage and business interruption (PDBI) policies, and cover under a dedicated cyber policy does not ordinarily extend to property damage or bodily injury. Many markets, including London, have imposed broad restrictive cyber property damage language, with the 2020 LMA5400 and LMA5401 exclusions effectively barring claims resulting from "an unauthorised, malicious or criminal act… regardless of time and place… involving access to, processing of, use of or operation of any Computer System". "Computer System" extends to any electronic device.

For concerned risk managers, there are options available to write the cover back in, but these extensions and standalone policies are not yet generally considered a critical part of the renewal cycle. One reason is perhaps the perceived complexity required to undertake such attacks at the present time, with the handful of widely reported examples largely being tied to state sponsorship (for example, the reported attacks on the Ukrainian power grid in 2015). Furthermore, because we don't know what we don't know, the prevalence of these events is likely under-reported. Victims will be keen to achieve anonymity, given that such matters are highly commercially sensitive or subject to national security considerations. Furthermore, in some instances, the damage caused by the attack may have, or may serve to, destroy the evidence proving that a cyber incursion was the proximate cause.

Ultimately, however, reluctant buyers would be well advised to heed the words of President John F Kennedy that while "there are risks and costs to a program of action, they are far less than the long range risks and costs of comfortable inaction". Even those steadfastly sitting in the coverage gap should comprehensively assess and monitor the risk posed by (and the measures that can be taken to address) operations and control system interactivity. It is reported that in 2025 the industrial Internet of Things (IoT) market (essentially digitally connected infrastructure and control systems) will be worth a staggering US$1.06 trillion, with an expected value of US$1.68 trillion in 2030.

For comparison, the global property damage insurance industry is valued at $843 billion. By 2030, it is estimated that over 39 billion connected IoT devices will be in operation globally. Given the efficiencies promised, it is hardly surprising that key safety and control systems will become more and more integrated and potentially accessible to those desirous of causing harm. Investment in AI-driven technologies will inevitably filter down to threat actors, making the creation of potentially catastrophic malware code simpler and less costly. As more IoT devices come online, the risk of wider systemic impacts increases. The potential targets are also vast and not solely limited to industry. In 2015, Wired.com reported how hackers had remotely accessed a Jeep's IoT systems to demonstrate how it could be shut down while being driven at 70mph on a highway. IoT systems are being more broadly deployed in the healthcare, agriculture, logistics and energy sectors.

Whether it is the risk of the malicious opening of a dam, crop destruction through the hacking of a pesticide drone or a fire being remotely ignited by a hacked, overheating server, this is one risk that comes straight from Hollywood.

In an environment where cyber threats increasingly have the potential to trigger real world property damage and significant business interruption, organisations can no longer afford to treat cyber and property risks as separate conversations. The convergence of these exposures demands a more resilient and forward thinking insurance strategy, one that recognises the evolving threat landscape and ensures balance sheet protection when digital disruption results in physical loss. At Lockton, we work closely with clients to navigate these complexities and offer specialist products designed to close the gaps between traditional property cover and emerging cyber driven perils. With the right guidance and solutions in place, businesses can strengthen their defences and stay ahead of this evolving risk.

Meet the team

Aaron Le Marquer

Head of Policyholder Disputes

With over twenty years' experience in insurance law on both the policyholder and insurer side, Aaron is a leading advocate for policyholders in diverse sectors including financial services, hospitality and retail, energy and construction, and sports and entertainment. Known for leading a series of high-profile Covid-19 business interruption test case litigation in recent years, he is experienced in all commercial lines of business, including business interruption, directors and officers, professional liability, cyber, environmental risks, and construction. Aaron spent eight years practising in the Asia Pacific region and is particularly experienced at resolving international and reinsurance disputes, often via arbitration.

Aaron has been ranked as a leading insurance practitioner in the Legal 500, Chambers, and Lexology Index (formerly Who's Who Legal) since 2013. He was named as The Times Lawyer of the Week in 2023, and listed in The Lawyer Hot 100 in 2025.

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> Aaron Le Marquer is genuinely outstanding. … A standout name in the market."
>
> *Legal 500 2026*

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Chloe specialises in insurance coverage and professional negligence. Having previously acted for insurers, she now acts exclusively for businesses and individuals in high-value disputes against the insurance market and the financial and professional services sectors. Chloe has successfully recovered significant funds for clients across insurance lines, and has represented clients in disputes spanning a number of jurisdictions (including the United States, Canada, South Africa, Mauritius, Gibraltar, and countries across the Channel Islands and Europe).

Before joining Stewarts, Chloe advised Lloyd's and London market insurers on their high-profile market loss exposures and drafted policy wordings for existing and new insurance products. Chloe is ranked by both Chambers and Legal 500.

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> Chloe is wonderful to work with. She has deep expertise in her specialism and is very personable and conscientious. She is able to explain things in a clear way to non-lawyers and lawyers alike."
>
> *Chambers 2026*

James Breese

Partner

James is ranked by Chambers and Legal 500 as an 'Up and Coming' and 'Next Generation Partner'. He has represented policyholders in the UK and internationally for eight years, having previously acted on the insurer-side. James uses his knowledge of both sides of the market to strategically advance policyholders' complex insurance disputes.

James' clients range from listed companies, private equity houses, asset managers and multinational enterprises, to high-net-worth individuals and directors of companies. He is regularly instructed to resolve coverage disputes under W&I, D&O, cyber, and investment management insurance policies.

Since 2020, James has also represented policyholders in the leading Covid-19 insurance litigation in the Commercial Court and Court of Appeal. James is widely regarded for his strong business interruption insurance expertise having recovered tens of millions from insurers, including for distressed or insolvent businesses.

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> James is easy to work with, pragmatic and clear, and he produces great results."
>
> *Chambers 2026*

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Policyholder Disputes at Stewarts

We act exclusively for policyholders in high-value, complex insurance disputes.

Our market-leading Policyholder Disputes team represents businesses in insurance coverage disputes, including cyber, financial and professional risks, construction, business interruption and property losses.

We only represent policyholders in disputes against insurers. Our team has experience acting for local and multinational clients in all sectors, including financial services, entertainment, property, construction, hospitality, retail, logistics, manufacturing, energy and sports.

We do not act for London market insurers, and so are free to pursue claims against the insurance market.

We are one of the largest dedicated policyholder teams in the UK market, and all three of our partners are ranked as leading practitioners in the main legal directories. Our team's cases have been listed in The Lawyer's Top 20 Cases and Top 10 Appeals for the last four years consecutively.

Stewarts is a litigation powerhouse, and we leverage the firm's broader resources where subject matter experts are required, including in tax, insolvency and asset recovery, securities, fraud and employment law. Our combined resources in these areas provide a unique one-stop-shop for insured companies and their directors and officers.

We regularly act in English litigation and arbitration for clients based in overseas jurisdictions with insurance placed through the London market. Our team is experienced in handling disputes with a broad international reach with a particular focus on the US, and Middle East and Asia Pacific regions.

Our firm has unrivalled experience in putting together innovative costs arrangements to help with insurance disputes. The use of third-party funding, after-the-event insurance and risk-sharing fee agreements enables our clients to manage risk and litigate from a position of financial strength.

> **Stewarts' insurance team is one of the leading policyholder teams in the country."**
>
> *Legal 500 2026*

> **Stewarts know how to get the best possible results for their clients. The team are extremely knowledgeable and we have complete trust in their ability to handle the most complex insurance matters."**
>
> *Chambers 2026*

About Stewarts

Stewarts is the UK's largest disputes-only law firm acting in some of the most high-profile and ground-breaking cases.

Specialist expertise

We are widely recognised for our innovative and cutting-edge approach to high-value and complex litigation. Clients instruct us when the stakes are high and where genuine disputes experts are needed.

Our strength and depth rivals that of many disputes teams across the elite UK, US and international firms.

Conflict-free status

As a disputes-only firm, we are conflict-free and uniquely placed to advise where other law firms may be conflicted.

Client service

We get to the core of the dispute at hand as well as our clients' underlying commercial and strategic objectives so that our advice is tailored and holistic.

Our lawyers handle a small number of cases to ensure that they give our clients the care and responsiveness they need to go against the most well-resourced opponents.

Reputation

Our reputation is confirmed by our rankings in the leading legal directories as well as The Times Best Law Firms. We are consistently recognised as a "truly client-focused outfit whose calibre and experience is second to none".

International reach

The great majority of our work is international. As an independent law firm, we are free to work with our clients' existing advisers and can also draw on our strategic alliances with leading international law firms. This enables us to work in a global counsel role to coordinate complex multi-jurisdictional

Depth

We have over 200 lawyers, including 90 partners, and 480 staff across our London and Leeds offices.

Clients

We act for corporates and individuals in high-value and complex disputes in the UK and around the globe.

Practices

We have 15 practice areas across Commercial Disputes, Private Client Disputes and Injury Disputes.

Rankings

All of our practices are highly ranked in the Chambers and Legal 500 guides

Stewarts would like to thank the following for their contributions to The Policyholder Review 2026:

- Howden
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- Lockton
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