

# FAQs

## Question Time webinar - The many faces of Coronavirus for insurers

### When did the Government impose the restriction on movement?

---

The UK Government initially recommended avoidance of non-essential travel and contact with others on 15 March 2020. In England, schools, restaurants, pubs, indoor entertainment venues and leisure centres were ordered to close on 20 March 2020 pursuant to the Health Protection (Coronavirus, Business Closure) (England) Regulations 2020. That was followed on 26 March 2020 by a lockdown of the whole population, including the closure of almost all businesses, pursuant to the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

### What other legislation deals with the restrictions that have been put in place?

---

The affected businesses are listed in Schedule 2 of the [Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020](#).

### What other legislation deals with the restrictions that have been put in place?

---

Please see the [Coronavirus Act](#), which came in to force on 25 March 2020.

### Do the Government's restrictions on movement and the closure of specific businesses represent concurrent causes of loss?

---

Arguably some business interruption (“BI”) losses arising from the outbreak would have been sustained either because of the restriction of movement on the general population or because of the restriction on trading. This issue brings into conflict the “but for” test of causation (which suggests that losses will not be covered if they would have been sustained in any event) and the principle that cover will be available for losses arising from concurrent causes subject to express exclusion of one of the perils giving rise to the loss.

### What steps has the insurance industry taken to protect customers during the pandemic?

---

The ABI has issued three protection pledges to support the NHS, support those making a claim and support vulnerable customers. These pledges apply to customers making claims on life, critical illness or income protection policies.

Some insurers have also offered measures to support businesses forced to close or change their ways

of working as a result of the pandemic. [These pledges](#) include extending contents cover to employees working from home, ensuring there are no changes to premium for premises forced to close and introducing automatic extensions to cover to prevent businesses from becoming intentionally uninsured.

## **What is the scope of the FCA's test case?**

---

The scope of the test case is currently unclear, but details should emerge shortly following the closure of the FCA's request for feedback from policyholders and intermediaries by 20 May 2020. We anticipate that the action will focus on issues such as whether Coronavirus contamination constitutes damage to property and how losses arising from the outbreak and lockdown have been caused.

## **Is there any point having insurance if it does not respond in these circumstances?**

---

Some policyholders have questioned the value of insurance where insurers are perceived to have let them down by declining to indemnify losses arising from the COVID-19 pandemic. However, the policies under which those claims have been made were designed to cover a variety of other perils which could impact on a policyholder's business, such as fire or an escape of water. It would be a significant overreaction to abandon insurance altogether purely because business interruption cover is generally unavailable for pandemic risks.

## **What is the likely loss to the London Market as a result of COVID-19 related claims?**

---

Lloyd's has announced that it expects COVID-19 related claims to cost £2.5 billion to £3.5 billion. The headline figures for the London Market as a whole is estimated to be £5.3 billion. However, if BI losses that were never intended to be paid are factored in the figures would be significantly higher.

## **On what basis could insurers be forced to meet BI claims even where they are not covered under the policies?**

---

This could only take place by Parliament enacting legislation with retrospective effect. Retrospective legislation is highly unpopular as individuals and businesses arrange their lives and affairs according to the law in force at the time. There is little real political appetite to retrospectively rewrite insurance policies and doing so would have a broader reputational impact on the UK's standing as an international financial centre.

## **Is it likely that an insurer will become insolvent due to the pandemic?**

---

Flood and terrorism risks are covered by [Flood Re](#) and [Pool Re](#) respectively, both of which are government-backed schemes to reinsure cover provided to customers by the insurance market and thereby provide capacity on a scale which would not be practically possible via insurance solutions based purely on private funding. A similar scheme could be applied to pandemic risk.

### **What new insurance products are we likely to see in the near future?**

---

The Coronavirus pandemic has shone a light on the protection gap i.e. the gap that exists between insured risks and risks falling outside the scope of insurance cover. We foresee a demand for products to plug those gaps as businesses look more closely at their insurance arrangements.

### **What options are available to policyholders who feel they are not being treated fairly by their insurer?**

---

The Financial Conduct Authority (“FCA”) expects firms to consider very carefully the needs of their customers and show flexibility in their treatment of them, especially where businesses have suffered major disruption as a result of the pandemic. Policyholders who fall within the jurisdiction of the Financial Ombudsman Service (“FOS”) will be entitled to raise a complaint if they feel that their insurer has not treated them fairly.

### **How does the FOS determine complaints concerning the availability of cover under an insurance policy?**

---

The FOS determines complaints with reference to what it considers to be “fair and reasonable in all the circumstances of the case” – see rule DISP 3.6.1R of the FCA Handbook. The FOS is not bound to determine cases in accordance with the law but, where it makes a decision that is incompatible with the law it must explain its reasons for doing so. The FOS may therefore come to different conclusions about insurance coverage disputes than the Courts. However, the FOS can only make enforceable awards up to a limit of £350,000 whereas no such limit applies to the jurisdiction of the Courts.

### **Are there any other classes of insurance, which may see claims relating to COVID-19?**

---

Yes, the following classes of business will also see Covid-19 related claims: Contingency, (especially film & media cancellation) FinPro Casualty, (especially D&O) Trade Credit & Surety, Property, Aviation & Marine and Accident & Health.