



Managing risk in real estate

Significant changes in liability regulation have created a renewed focus on insurance cover for commercial property. Owners need to do more than simply pay lip service to risk management in the current climate. **By Jon Guy**

Underwriters are often less demanding about the levels and sophistication of risk management programmes in operation when there is plenty of insurance capacity available in the market – although they are prepared to offer reduced premiums to those who have solid systems in place. The price differential, however, will increase when rates start to harden again as underwriters become more selective about the risks they will cover and load the premiums on to those they believe are poorly managed or lack a structured risk management programme.

“Firms have to take a long-term view in their risk management systems,” believes Paul Welling, Chairman of Jardine Lloyd Thompson’s Real Estate Practice. “Proper systems will not only reduce the number and level of claims, they will also provide evidence to underwriters as to why a firm should be credited with lower premiums. This strategy will pay dividends when the market starts to turn, as it inevitably will.”

Risk management systems must also focus on the wider issue. The whole risk environment for property owners has changed radically. It is not only the physical threats (such as fire and security) that present a challenge for owners, managers and their tenants – new regulations on liability could dramatically change the kinds of threats faced by owners.

“Systems need to take into account corporate governance and the protection of directors and officers, particularly in light of the new corporate manslaughter act in the United Kingdom. We need to talk a bigger game here,” adds Welling.

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Increased complexity

According to David Cooper, Regional Manager, Allianz London Market Property Division, “the risk environment is getting far more complex for owners” and they need to pay more attention to risk management. In the past, explains Cooper, “when it was all about protecting the bricks and mortar from fire and water damage, it was enough to ensure you had the public liability cover in place. Now there is a wave of new liability issues that needs to be taken into consideration, such as environmental liability, sustainability, health and safety, corporate social responsibility and your actions as the property owner in terms of new rules in areas such as corporate manslaughter.”

One of the most significant drivers of change is the Corporate Manslaughter and Corporate Homicide Act 2007, which from April this year changes the dynamics in terms of public liability for property owners and managers. John Searing, who recently joined Jardine Lloyd Thompson to provide risk management expertise for real estate clients, explains: “It used to be the case that when there was an injury or death the cost of the litigation was higher than the compensation figure or level of fine. However, under the new Act, the fine is a percentage of gross turnover, which has placed a huge new liability on companies and management.”

Insurers have reacted with changes to the policy, which will now provide cover for defence costs and a set limit for any fines or compensation, which at present is typically £5 million.

“It demands a more holistic approach to risk than we have seen previously. Clearly these new liabilities will be factored in by

underwriters in the rating process and they will want to see clear evidence that you have recognised the risks to your business and have taken appropriate steps to manage those risks,” Cooper concludes.

Proactive approach to risk

Searing urges owners and managers not to ignore the need for far more proactive risk management. “The days when managers and owners simply relied on the annual risk management survey from the insurance companies at renewal have gone,” he says. “What is needed, and in the case of many insurers now expected, is a proactive approach that goes beyond insurers’ fire bucket surveys and forms part of a fully comprehensive risk management system.”

The key issue is the establishment of proper systems for reporting and monitoring risk management problems in order to have a fully auditable trail of the ways in which the problems have been addressed. It is the people at the grass-roots level who may well be at the property on a daily basis who need to be trained and qualified to identify where risks may occur and understand what needs to be done.

“You have to ask who in your company sees the risk management surveys or issues

arising from risk assessments and what they do with this information,” Searing advises. “Is it simply placed in a file and forgotten or is it read and acted upon? It should really be a matter of entering details into a system that logs the report, perhaps automatically making a future diary note for when the next such inspection is due. The system could also log all the actions required with prioritisation and due dates; allocate individual responsibilities, requiring updates on progress through the management system (obtaining estimates for works, seeking approval, authorising works, logging start date, etc); and finally signing it off when completed. This could be backed-up with regular automatic prompts throughout the process if matters do not progress from one stage to the next within expected timescales.”

For underwriters, risk management is, and will remain, a significant price differentiator. “Good risk management is clear to see in terms of the level of claims a policyholder has,” concludes Cooper. “It is in an underwriter’s interest that a client has robust risk management systems, so we will offer reduced premiums for firms that show they are taking a proactive approach to risk management. It is more than simply health and safety and physical damage. We are seeing clients and brokers working ever closer to address the other issues such as the potential for liability claims.” **RS**

John.Searing@jltgroup.com

Jon Guy is an expert commentator on the insurance and financial services markets and former Editorial Director for the insurance division at Informa.

MORE THAN LIP SERVICE

Seven key steps to robust risk management for property owners and managers.

- 1 Formulate and implement a long-term risk management strategy** that identifies the significant threats to your business, the solutions and a timetable for their implementation.
- 2 Take a proactive approach to risk management** and the ability to manage risk on a day-to-day, and not simply an ad hoc, basis.
- 3 Ensure you understand the need for risk management** and the specific risks your company faces.

- 4 Invest in the training and education of staff** on the core risk management issues in order to ensure the early identification of new risks.
- 5 Develop tools to improve the risk management capability** of your company, including regular reviews.
- 6 Employ the necessary expertise** to offer advice and guidance, whether it is internally or via a partnership with a specialist risk consultancy.
- 7 Ensure all this work and the resulting benefits are communicated** to stakeholders including insurers, managers, owners, occupiers and where appropriate secure their buy-in.