



# Covernotes



## Motor vehicles: the new instruments of terror

**The use of hire vehicles to kill and maim people is a new form of terrorism. But who is liable to compensate victims? And are you covered against terrorist threat if you hire out vehicles?**

We are all aware of the tragic events in London earlier this year and most recently in New York, in which motor vehicles were used by terrorists, resulting in many life-changing injuries and deaths.

A man injured in the Westminster attack is currently bringing a legal liability claim in respect of counselling and rehabilitation against Zurich, the insurer of the rental company who hired out the vehicle used in the attack. Zurich has publicly stated they have 'a specialist team looking at how the policy is impacted' and that 'the tragic event presents many complex aspects as far as insurance is concerned'.

Willis Towers Watson has explored the legality of whether the motor insurer or the Motor Insurance Bureau (MIB) could be held liable to compensate victims of such attacks, and agree with Zurich that it is a complex issue.

A typical Motor Fleet policy does not provide cover for third

party liability in relation to a terrorist event. Willis Towers Watson believes it is not the function of insurance to cover criminal acts or events that are not fortuitous, and it is unlikely the driver committing the terrorist act would be provided with such an indemnity.

If the insurance covering the vehicle were to fail, the driver would be considered uninsured. An innocent third party would then be entitled to bring a claim against the Motor Insurance Bureau (MIB), which has an agreement with the Government to cover uninsured drivers. (The MIB levy a charge from insurer members for this purpose.) Terrorism was originally excluded from the agreement, but this exclusion was removed for claims made after 1 March 2017.

In order for a claim to be considered under the MIB agreement, a 'Relevant Liability' covered by the Road Traffic Act (RTA), must be in place. A 'Relevant Liability' means a contract of insurance must in place to comply with the 1998 RTA. For your policy to cover a 'Relevant Liability' it must be stated within the policy what your policy covers in relation to the RTA. For the 'Relevant Liability' to be upheld, the injury sustained by an innocent third party must be from the 'use of the vehicle on a road or public place'.

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### **An insurer may successfully avoid paying a claim to compensate victims if it can prove the policy excludes deliberate acts.**

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Willis Towers Watson believes the terms 'road' or 'public place' may be relevant to establish who is responsible to compensate victims. If a 'Relevant Liability' is not in place, the innocent third party may seek compensation under the Criminal Compensation Scheme.

Basically, it appears that an insurer may deny claims due to deliberate acts of terrorists, in which case the MIB may pay compensation. However, this is an unprecedented area and subject to legal interpretation. If you hire out vehicles and are concerned whether you are covered against motor terrorist attacks, please talk to us so that we can advise on the most appropriate solution.

Sources:  
Willis Towers Watson Fact Sheet: Motor Vehicles: The new instruments of terror

## **Weather-proof your business against the winter.**

**Winter is on the way, bringing with it the prospect of strong winds, heavy rain, frost and snow. Are your business premises prepared for winter and are you adequately insured?**

### **Storm Damage**

High winds and rain have caused considerable damage to properties in the UK in recent times. Occasionally the damage can go unnoticed, so check your property and outbuildings regularly for loose or missing roof tiles.

### **Gardens and walkways**

Check trees for signs of weakness and lop or remove branches that overhang your premises to avoid possible damage if they fall. Clear walkways and order grit to ensure pavements and pathways will be safe to use in the event of ice and snow.

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**Keep details of your policy number and cover details on hand, just in case of loss or damage to your business this winter.**

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### **Burst Pipes**

If you are closing for the weekend or longer during the holiday season, leave the heating on the minimum setting and check on a regular basis to avoid pipes freezing. Other sensible precautions include lagging all pipes and tanks with insulation material and ensuring the boiler is annually maintained. Stopcocks and valves should be clearly marked and accessible. If a pipe bursts, turn off the water supply and central heating system, and drain the system by turning on the cold taps.



### **Flood**

Keep valuable stock on a higher level, fit a flood alarm in vulnerable areas and install an electric sump pump in basement areas used for storage. Sign up to the Environment Agency's 'Floodline Warnings Direct' service. For further information, see our article on Flooding.

### **Blocked Drains and Gutters**

Blocked gutters and drains are a major cause of water damage so ensure they are clear of leaves, climbing plants and dirt.

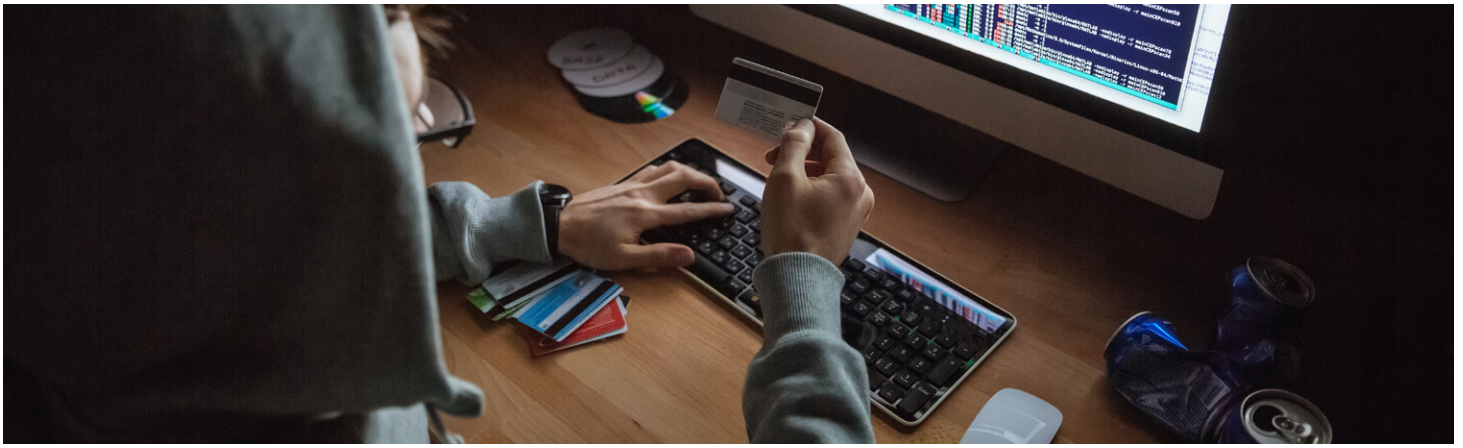
### **Oil Storage**

Before refilling an oil tank, check for leaks and ensure it is secure. Check your insurance covers accidental loss of oil.

Use the last days of autumn to carry out maintenance checks on your premises and tackle any minor problems before they turn into major ones. A little preparation now could save a lot of time and trouble later on. In particular, make sure you have the right level of insurance protection in place, providing cover for damage to buildings, contents and stock, business interruption and loss of earnings.

Please contact us for a review of your insurance policy.

Sources  
Willis Towers Watson Networks Insurance Matters articles



## Social engineering, spear phishing, whaling.... the latest trends in cyber-crime

**Cyber-crime is on the increase. The UK's 5.4 million small businesses are collectively attacked more than seven million times a year, costing the UK economy a staggering £5.26 billion for 2014 and 2015, according to a survey by the Federation of Small Businesses.**

With British companies reporting a 22% increase in cyber-crime in 2016, cyber security should be a top priority for all businesses.

So, firstly you need to understand the current terminology relating to cyber and how it can affect you:

**Phishing** is a fraudulent attempt to uncover confidential information by masquerading as a reputable company in an email or phone call. An employee in a construction firm fell victim to a targeted form of phishing known as spear phishing, responding to an apparently genuine email request from a trusted source. The victim clicked a malicious link and, in a single email response, provided hackers with full tax records of every employee who'd worked for the company during 2015.

**Whaling** is now big business, where criminals attempt to 'land a big fish' by targeting a CEO or managing director with a sophisticated scam. Last year, Austrian aerospace parts maker, FACC, was swindled out of £37m by hackers using a whaling scam, tricking them into making a large payment for a fake acquisition.

**Distributed Denial of Service (DDOS) or Denial of Service (DOS)** is an attempt to bring a website or network to a standstill by flooding it with data requests.

**Social engineering** attempts to trick people into disclosing confidential information, using a 'baiting' email linking to free software or a fake phone call.

And what about the people who are involved in cyber-crime: a **Black Hat Hacker** is a 'gun for hire' who works for personal gain, whilst a **White Hat Hacker** is the opposite, alerting companies to potential vulnerabilities.

Also, if you thought your data was safe as it is automatically

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**In 2016, 66% of small firms surveyed were victims of cyber-crime.**

Federation of Small Businesses (FSB) Cyber Resilience Report 2016

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backed up on the Cloud, then think again. When a power grid in Belgium was struck by lightning, data was wiped from a Google Compute Engine, resulting in customers losing access to their Cloud files. Google now advises you to 'back-up your back-up'.

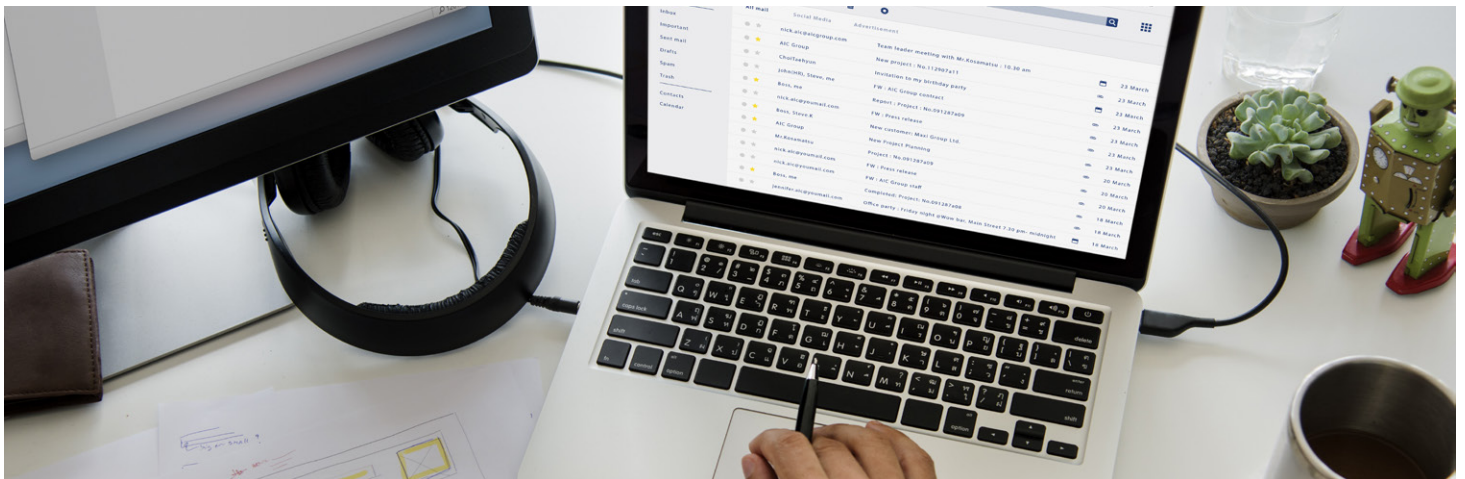
Many small businesses believe cyber cover is too expensive and that their existing insurance provides adequate cover. When a retail company found their Twitter feed had been hacked and they were consequently broadcasting pro-ISIS propaganda, they incurred over £180K of forensic costs. Luckily for them, they had taken out Cyber Insurance.

If you are hacked and your customer records compromised, you will need to write to your customers reporting the situation. At 65p per stamp, this could work out costly. You should also report the breach to the Information Commissioners Office (ICO), who could potentially fine you, as a charity found recently, when they were fined £70k for 'avoidably' compromising customer records. Personal record management will become more into focus for all companies with the introduction of the General Data Protection Regulations (GDPR) which replaces the current Data Protection Act in May 2018.

A cyber policy provides protection and support against these and various other cyber-crime scenarios, providing a level of cover not offered by standard business insurance. To ensure you are adequately protected, talk to us today.

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# Are you GDPR ready?

**The new EU General Data Protection Regulations (GDPR) is already law, with an enforcement date of 25 May 2018. By then, all businesses will need to be fully compliant or face heavy fines, which means you need to make the necessary changes now.**

GDPR replaces the existing Data Protection Act and changes the way personal data can be handled, with consumers having increased rights over the way their data is collected, maintained and shared. It aims to create a uniformity of rules across the EU and improve the customer experience.

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**GDPR is already the law. The implementation date, 25 May 2018, is when increased fines will start to be imposed.**

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At present, the onus is on the consumer to opt out, which may involve 'unticking a box' or stating clearly they do not want their data to be collected and used. Under the new regulations, the onus is on the data collector to gain permission to gather personal data, and to provide total transparency as to how it will be used.

To give you the essential facts about GDPR, here is a useful 10-step guide:

1. You must be GDPR compliant before 25 May 2018 or face heavy fines
2. Personal data will need to be processed transparently, lawfully, for specific purposes, and be kept up-to-date
3. The definition of personal data is wide reaching. Final official guidance on the interpretation of this definition from the Information Commissioner's Office is still awaited, but we believe it will include business email addresses that can identify an individual

4. The vast majority of business to business, and business to consumer marketing will be affected
5. Individuals will have the right to see what data you hold about them and request it is removed
6. Information held about individuals must be held 'with consent' or 'for a legitimate purpose'
7. 'With consent' means the individual will have given explicit permission for you to hold and use their data
8. Your processes will need to evolve to provide 'freely given opt ins' rather than existing 'opt outs'
9. You can only hold data relating to activities you have received permission to use it for
10. You must be able to DOCUMENT, PROVE & DEMONSTRATE you are doing all the above – and more!

There will be tough penalties for data abuse, and any company not complying with the new GDPR could face fines of up to 4% of their annual turnover. Please also be aware that the Privacy and Electronic Communications Regulations (PECR), which sit alongside the Data Protection Act give people specific rights in relation to electronic communications, such as marketing calls, emails, texts, faxes and cookies.

We will update you on GDPR as its implications become clearer. We do also recommend you view the Information Commissioner's Office website, [ico.org.uk](https://ico.org.uk), on a regular basis to keep fully up to date on how GDPR could affect you.

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Also, for internal info: Willis Towers Watson Networks: Marketing Insider Letter: Practice Group Special Edition



## Recovering after a flood

**An increase in extreme weather across the UK is exacerbating the problem of flooding, which is why it pays to have the correct insurance in place for your business premises.**

When high tides and stormy weather cause coastal flooding and rivers burst their banks, the Environment Agency has an early warning system in place. But pluvial or surface flooding tends to occur with little warning, often in areas not usually prone to flooding, placing more properties than ever at risk.

Obviously, there are actions you can take to mitigate flood damage, such as installing flood barriers and non-return valves on sewers to prevent back flow; or wet proofing measures, such as flood resistant building materials and raised electrical wiring. Developers can also help to mitigate risks by ensuring adequate drainage and run-off facilities, separating storm and foul water systems and including appropriate capacity provision for storing water within green landscaping.

When flooding does happen however, water can enter your premises via a number of routes, including walls and floors, doors, windows, airbricks and vents, drains, sewers and pipework.

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**Over 5.2 million (one in six) properties in England are at risk of flooding. Flood damage costs the UK an estimated £1.1bn per year.**

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With little time to react to such an event, it is important to know what to do if the worst happens. Serious flooding can cause structural damage and make buildings unsafe, so do not re-enter the property unless you know it is safe to do so, and if possible, turn off electricity before floodwater enters your property. Do not throw anything away if you are planning to claim for contents insurance – it is all evidence.

### **The role of the loss adjuster**

If you are flooded, contact us immediately and we will arrange for a loss adjuster to visit and assess the damage where appropriate. The loss adjuster's role is to find the quickest and most efficient way to return your facility to a usable condition. In most cases, they will try to visit you within 48 hours, although in late 2015, when Storm Desmond hit Cumbria, it took longer as bridges were swept away and access was an issue for everyone.

Provided you have adequate insurance, your insurer will deploy damage mitigation specialists to remove water, manage removal of contents and dry the property using state-of-the-art techniques. If your contents are insured, a loss adjuster will advise you what can and cannot be restored, depending on the level of contamination. As it can take many months for flooded premises to dry out, it is also important to make sure you have cover for temporary new accommodation in place.

### **Underinsurance**

Underinsurance is a common problem in flood situations, so please check with us that your business and assets are adequately insured. As well as replacing stock and repairing your premises, you may not be able to trade for months, so your policy should also include Business Interruption. This will compensate you for lost income and profits, and increased expenses caused by flooding. Please call us and we will be happy to advise you on all aspects of flood insurance.

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# How would you handle a product recall?

**Product recall cannot only be costly for your business, but it could also threaten your reputation. Do not wait until it is too late - think now about how you would manage a recall.**

Legislation introduced in 2005 makes manufacturers responsible for ensuring the safety of the product they supply. Guidance provided by Trading Standards and on gov.uk states clearly that producers 'must be able to respond effectively if a problem with the safety of a consumer product is identified'.

A product recall is a request to return a specific product after safety issues or product defects have been identified that may endanger the consumer or put the maker/seller at risk of legal action. Over the last couple of years, product recalls have risen by nearly 50%, increasing from 388 in 2014/15 to 575 in 2015/16.

This was primarily due to new EU legislation requiring all food labels to display information on 14 different allergens: Lidl was forced to recall its 'Alesto Honey Peanuts' because 'peanut' was not declared in English on certain packets, and Tesco removed its 'Multi Seeded Bloomer' because the packaging did not specify that the loaf contained sesame seeds.

The cost of recalling a product can be significant, involving advertising, transportation and destruction of products and associated legal fees. But it would seem that manufacturers are also aware of the reputational damage that can be caused and are keen to be seen recalling potentially harmful products immediately.

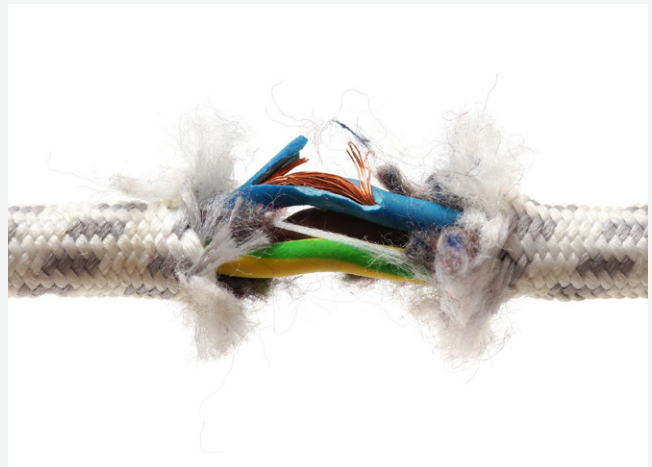
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**In incidents such as these costs can quickly spiral. The benefit of the product recall cover is to help defray and cover these costs.**

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In June 2017, Mars recalled batches of Galaxy chocolate bars, packets of Minstrels and Maltesers across the UK and Ireland, following a risk of salmonella; and in September 2017, Brompton recalled nearly 150,000 folding bicycles over an axle fault. Just recently, Marks & Spencer, Aldi and Lidl suspended buying chicken from 2 Sisters Food Group's West Bromwich plant after an undercover television investigation found evidence it had tampered with food safety records.

Over the last five years, the Driver and Vehicle Standards Agency (DVSA) have overseen 1,484 individual recall cases, involving more than nine million vehicles. Effective traceability means it is now possible to identify exactly where the problem originated, putting businesses within the supply chain at risk. While larger car manufacturers have the resources to weather the storm, smaller companies may struggle.



Reputational damage is now one of the top five business concerns. This has been fuelled by the increase in social media which enables 'bad' news to spread very quickly. The need to comply with the numerous changes in legislation for all types of company, irrelevant of size and sector, means Product Recall is now an essential cover to consider.

It does not matter where you are in the supply chain, you could be affected. As well as the direct product issues you may have to deal with, you could also be exposed to a subsequent loss of profit, legal expenses and other costs to cover public relations and crisis management.

Product recall has a large and varied number of risks associated with it. To counter these, there is a wide range of insurance products available. Please talk to us about how susceptible you could be to a product recall claim, so we can discuss the most appropriate product for your business and ensure you are adequately covered.

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# The pros and cons of offshore insurers

**Offshore insurers are able to provide very competitive terms. But there can be a price to pay for lower cost insurance and you need to be aware of the pitfalls.**

Offshore insurers are based outside the UK, in such locations as Gibraltar, Bermuda, Belize, The Cayman Islands and Ireland, which means it is impossible to assess their financial ability to meet claim liabilities. As they have no financial rating, it is very difficult to determine their financial strength, stability and security.

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**A number of offshore or unrated insurers have been stopped from arranging cover for UK companies, because of concern about their ability to pay claims.**

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Whilst they may be able to offer substantial advantages in terms of cost-savings and tax efficiency, offshore insurers are not registered with the UK regulator, which means policyholders do not get the same level of protection as they would if a company in any EU Member state ceased trading.

Already, a number of offshore or unrated insurers have collapsed or have been stopped from arranging cover for UK companies, because of concern about their ability to pay claims. Gibraltar-based Enterprise Insurance collapsed in October 2016. The Financial Services Compensation Scheme (FSCS) stepped in, paying over £26m in compensation to more than 30,000 policyholders, the majority of whom had their premiums returned. It was followed in November 2016 by the collapse of Liechtenstein-based Gable Insurance, for policyholders, the FSC stepped in once again. If your insurer collapses and they are not protected, not only will your premium be lost, but your policy will also be invalid and claims may not be paid.

Another factor to consider is that some large companies and contractors do not accept insurance cover from offshore markets, which means you may not be able to work on-site as you are not deemed to have adequate insurance in place.

Offshore insurers may be tax-efficient and appear to offer good value, but they can be unpredictable and may not offer the specialist cover you require. Willis Towers Watson Networks of which we are a Network Member deal only with top rated insurers. With many years' experience and links to all the largest UK insurance companies, we are in an excellent position to negotiate competitive terms and prices, with no hidden surprises or risks involved. Talk to us today about your requirements and benefit from our tailored expertise, personal service and detailed knowledge of the insurance market.



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