

Insurance Implications

On 23 March 2020 the Prime Minister announced further restrictions on daily life in the UK and in particular instructions only to leave home for 4 specific reasons. This has had a further impact on businesses and organisations across the UK who are unable to conduct normal day to day activities. The latest Government mandated instruction does have implications potentially for the position in relation to insurance policies. This could have an impact for SGBs who have had to cancel events and impose other restrictions on their activities. The Government has updated its own guidance in relation to insurance which is summarised below.

Commercial insurance

Most commercial insurance policies are unlikely to cover pandemics or unspecified notifiable diseases, such as COVID-19. However, SGBs which have an insurance policy that covers government ordered closure and pandemics or government ordered closure and unspecified notifiable disease should be able to make a claim (subject to the precise terms and conditions of their policy). SGBs are encouraged to check the terms and conditions of their specific policy and contact their providers as soon as possible to establish whether or not they have cover.

Notifiable diseases

On 5 March 2020, the government added COVID-19 to its list of notifiable diseases. Many insurers use the government's list as a trigger for the activation or exclusion of insurance cover. For example, insurers' policies that cover notifiable diseases will typically only cover a specific subset of notifiable diseases that the insurer will reference specifically in the policy documentation. These policies will exclude any notifiable disease not on the insurers list, as well as future/unknown diseases (such as COVID-19).

Unspecified notifiable diseases

Some SGBs might have add-ons in their insurance that cover for 'unspecified notifiable diseases'. These policies effectively cover any disease listed as a notifiable disease, enabling the business to claim for losses for all notifiable diseases as well as from diseases that are unknown at the point the policy is written.

Government ordered closure

The government has asked a number of different businesses and venues to remain closed from 21 March onwards and from 24 March 2020 it has ordered an effective lockdown of the entire country with individuals required to stay at home unless they have a good reason for leaving. Insurers have agreed that this advice is sufficient for businesses covered for COVID-19 losses to make a claim (if the only barrier to them making a claim was a lack of clarity on whether the government had ordered businesses to close).

However, most commercial insurance policies (including for denial of access) are unlikely to offer cover for COVID-19. Insurance policies differ significantly, so SGBs are encouraged to check the terms and conditions of their specific policy and contact their providers.

Event coverage

Due to previously announced restrictions banning mass gatherings and subsequent restrictions announced this has led to the cancellation of all sporting events in the country for the foreseeable future. SGBs will likely have some form of insurance covering event cancellation if they frequently organise sporting events.

An SGB with an event cancellation policy that includes unspecified notifiable disease extensions should be able to make a claim for the necessary and unavoidable cancellation, abandonment, curtailment, postponement and disruption of their event for reasons beyond the control of organisers and participants (subject to the other terms and exclusions of their policy). Insurance for major events is often bespoke to the specific event, so SGBs are encouraged to check the terms and conditions of their specific policy and contact their insurer or broker.

Disputes

Remember, if you have any concerns about the terms of your insurance and you believe that your insurance should apply, you can and should raise the matter with your insurer through their own internal complaints process and thereafter look to the Insurance Ombudsman and the Ombudsman's ability to investigate and determine disputes.

Get in touch

If you have any particular concerns regarding events during this time, please contact us through the **sportscotland** expert resource legal helpline (0141 227 9333 or sportscotlandinfo@harpermacleod.co.uk).