



Business Insurance & COVID-19: Preparing a defensible loss claim

Yes, your legal entitlements for recovery of loss may currently be somewhat blurred, what is always clear in any claim of business loss, preparation remains absolutely critical. The sooner preparation commences, the better.

Businesses should be preparing their claim now and seeking assistance from their trusted advisors in respect of whether they should be lodging, at the very least a notice of claim. The same applies to those who have had a claim rejected by their insurer.

If you have not yet done so, do so now

Whether your business interruption claim will be covered under your policy will depend on the precise terms of your insurance cover and the circumstances and nature of the loss, which you claim.

1 Read the policy carefully. What language is in your policy that might support the claim? How can the policyholder fashion a business interruption claim to make the strongest possible argument that it qualifies for coverage? Consult an independent adviser such as your accountant, lawyer or an insurance adviser to review your policy to see how best to frame your claim.

2 Pay close attention to deadlines and filing requirements. Often claims need to be submitted within a specific time frame, on a particular form and with specific accompanying information and documents. Make sure the insurer acknowledges receipt of your claim in writing, especially if your claim is lodged by an insurance broker or another advisor.

3 Plan ahead so that you can prove the amount of business lost due to COVID-19. This will require collecting and organising financial records, management reports and other information as detailed herein. Ideally, while memories and documentation are fresh. A successful insurance claim requires evidence of how much the policyholder actually lost.

Collecting evidence of losses sooner rather than later

What you need to prove



To enhance your level of COVID-19 business loss claim success and assuming you are appropriately insured:

- » Quantify your hypothetical scenario of how your business would have traded but for COVID-19, the 'but for' forecast (from which how it traded will be deducted to calculate your loss);
- » Build your evidence that the loss was a consequence of the insurable event (note any other factors affecting actual performance need to be understood and calculated); and
- » Demonstrate that you took reasonable steps to mitigate that loss.

The formulation of a claim and level of detail varies on a case-by-case basis. As an example, assessing loss for a mature steady business such as a supermarket business is generally a less complex process than that of a fast growing multi-national, a seasonal business or a business in transition from say local markets to export markets.

Things can change very quickly post the COVID-19 lockdowns. It is important that the state of the business is clearly documented during the COVID-19 lockdown:

- » Prepare and review monthly accounts, document a narration of what happened and keep doing this until business returns to what it may otherwise have been;
- » Prepare and maintain a file of correspondence from employees, suppliers and customers re issues that impact earnings;
- » Keep copies of documentation in relation to any cancellations or reductions in purchase orders issued by customers and suppliers.

Other documents

- » In addition to historical financial statements, you may have additional documents in respect of your business that can assist in calculating and understanding your loss claim:
- » Financial forecasts for future periods and copies of historical forecasts (evidences ability to forecast and the businesses past performance in meeting forecasts);
- » Business plans, current and historical.

If the above is not available, prepare an overview of business, its history and major changes over time.





ADVISOR INSIGHT: The cryptic world of loss

Calculating operational losses as a consequence of COVID-19 is a case of trying to prove a hypothetical situation. Of course, analysis and thinking are shaped by the past. As advisors, we are often presented with situations where a client has limited knowledge of the variances in historical financial performance, perhaps is behind in its financial compliance and yet for the first time it has prepared a forecast and has absolute belief that the forecast is correct. This is where diligent preparation steps in. Clients with insurance policies that provide for loss of business as a consequence of COVID-19 should not only be up to date in respect of financial compliance but they should also have a solid knowledge of the variability of historic financial performance. Where possible, evidence the calculations of what 'may have been but for COVID-19', particularly where it may not reconcile to previous performance and trends.

Know the numbers



You should be ready to have an informed discussion with your insurer's loss assessor (and if your 'but for' calculation does not reconcile to these factors, what alternate supporting evidence is available):

- » Changes in the business over time;
- » Volatility in revenue, margins, expenses;
- » Major trends in the business and industry;
- » Major competitors and basis of competition;
- » Business' market positioning, points of differentiation;
- » Key business relationships;
- » How it will achieve forecast, what are the risks;
- » Regulatory factors;
- » Non-economic factors impacting growth e.g. substitute products, changes in lifestyle;
- » Strength, weaknesses, opportunities, threats;

Measuring disruption

Prior to and/or after the business disruption, business decisions, whether they be operational or strategic, may be made or influenced by the COVID-19 lockdown.

It is important that any losses are measured and changes documented in respect of the how and why. From past experience we have observed businesses make changes in respect of:

- » Promotional strategies;
- » Inventory purchasing (more, less, different);
- » Fit out revamps;
- » Employment;
- » Equipment.

Business should be addressing whether their system can report:

- » Daily margins by store/location;
- » Sales or margins per sales person;
- » Margins by product.

Consideration should be given to recording data such as patronage, enquiries, conversion rates, a daily diary – even photographic evidence of the impact of the COVID-19 lockdowns may be useful in supporting your claim. Think broadly and strategically what data you can draw on, 'out of the box' thinking may be needed.

Business Insurance & COVID-19 Checklist

STRATEGIC PLANS

Business plans, current and historical. If there are no business plans available, prepare an Information Memorandum instead. Include the following detail:

- » Unique selling proposition or strategic advantage.
- » Basis of competing, points of differentiation.
- » Major changes.
- » Industry changes.
- » Major competitors.
- » SWOT analysis.
- » Forecasts for future periods and copies of historical forecasts.

FINANCIAL REPORTS

- » Financial statements and tax returns for at least the last 5 years.
- » An understanding of historical financials, particularly volatility, changes and trends and what that means for calculating the 'but for' financial scenario.
- » Monthly management accounts for the last 3 years (profit and loss and balance sheet).
- » Monthly management accounts year to date (profit and loss and balance sheet).
- » Where possible a monthly management narration of the impact of COVID-19 on customers, supplies, employees and the consequential financial impact.
- » An understanding of seasonal factors on revenue and costs and what that means for the 'but for' financial scenario.

OTHER DOCUMENTATION

- » Supporting documents and correspondence from suppliers re supply difficulties.
- » Supporting documents and correspondence from customers and clients re cancelled sales, renegotiated sales.
- » Revenue top 10 clients last 3 years and gross profit.
- » Revenue by top 10 products last 3 years and gross profit.
- » Regulatory factors.
- » Non-economic factors impacting growth.

EVIDENCING MITIGATION

What strategies were undertaken to mitigate the loss in earnings:

- » Changes in business strategy e.g. online investment, click and collect.
- » Increased promotional activities.
- » Staff redundancies.
- » Product/service discounting.
- » What are the relevant revenues, expenses and capital expenditure.
- » Other capital expenditure e.g. to improve employee, customer, supplier safety.

This checklist is a guide only, to stimulate thinking and serve as a call to action. Each business's situation is unique. Early preparation can make a significant difference in the end-result.

Need help? Get in contact with our team in Melbourne **+61 3 9820 6400**.

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