

A deductible insurance programme - risk or reward?

Allison Walters - Assicurazioni Generali S.p.A.
Alex Boswell - MD Global Casualty - Lockton

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Types of self-insurance

- Deductible
- Excess
- Self-insured retention (SIR)
- Franchise
- Coinsurance

Types of deductible

- Each and every loss deductible
- Time deductible
- Aggregate deductible
- Clash loss deductible
- Maintenance deductible

When to use a deductible

- Predictable level of attritional losses
- Ability to fund losses
- Desire to:
 - Control external premium spend
 - Reduce premium tax burden
 - Broaden coverage
- Hardening market conditions
- Sound risk management practices

Underwriters considerations

- Why is the client considering a high deductible?
- Can the client fund the deductible:
 - Short-term?
 - Medium-term?
 - Long-term?
- What is the client's attitude to risk management?
- What is the client's attitude to insurance companies?

Why do insurers want a deductible?

- Hazardous activities and/or products
- 'New' coverage
- Limited underwriting information available
- Poor claims experience
- Perceived poor risk management

Pricing a deductible programme

Insurance premium – 3 key elements:

- Risk premium
- Expenses and overheads
- Profit/cost of capital

Additional costs:

- Collateral requirements
- Opportunity cost of capital
- Cost to transfer retained liabilities

Pricing a deductible programme – risk premium

- Loss experience of client – frequency and severity
- Loss experience for similar clients
- Risk management
- North American exposure
- Insurer loss ratio

Loss development

Year	9mths	21mths	33mths	45mths	57mths	69mths	81mths	Ultimate
1	250	476	793	2,465	2,420	2,395	3,400	3,400
2	401	415	907	1,026	1,033	1,096		2,135
3	51	425	605	664	893			2,096
4	41	563	2,143	2,164				4,657
5	196	1,334	1,738					4,776
6	256	284						1,657
7	65							1,228
Average	180	583	1,237	1,580	1,449	1,746	3,400	2,850
LDF		3.2380	2.1227	1.2769	0.9170	1.2049	1.9479	

Calculating the total cost of risk (TCOR)

- Insurance premium (including insurance premium tax)
- Brokerage/commissions
- Claims handling charges
- Retained losses
- Cost of collateral requirements
- Administrative charges:
 - Audit expenses
 - Captive charges (if applicable)
 - Cost of managing fund
- Survey, risk engineering, risk control fees

Other considerations

- **Claims handling:**
 - Who is doing the claims handling?
 - In-house
 - Nominated adjuster
 - Insurer
 - Preferred lawyers
 - Has the client and/or insurer worked with them?
 - What are the claims handling arrangements?
 - Claims audits?
- **Commercial settlements**

*Shortage of adjusters.....
for insurers involved in Chile quake*

Optimising deductible levels

Minimise inefficiencies

- Avoid :
 - 'Pound-swapping'
 - Undue uncertainty

Maximise buying power

- Give the client control IRRESPECTIVE of market conditions:
 - Premium
 - Policy extensions and/or new covers

Optimise costs

- Balance:
 - Internal cost of capital v transfer uncertainty to insurers
 - Credit for retention v cost to transfer
 - Administration costs

Collateral requirements

- Required where insurers are ‘fronting’ insurance programmes - typically for compulsory classes i.e. EL and third party motor
- Acceptable forms include:
 - Letter of credit
 - Parental guarantees
- Collateral requirements should
 - Be based on expected level of losses
 - Reviewed and adjusted at regular intervals
- Programme structure can influence the level of collateral

Funding a Deductible programme

	Pros	Cons
Individual operating units	Encourages proactive risk management – business units pay for their own losses	No reserve for IBNR - issues in claiming for historic losses in subsequent years More complex to administer - multiple collection points for payment/reimbursement of losses
Corporate centre	Easy to administer – single collection point for payment/reimbursement of losses	No reserve for IBNR - issues in claiming for historic losses in subsequent years Business units not penalised/rewarded for their actual loss experience
Captive	Reserve for IBNR can be established Potential tax advantages depending on domicile Easy to administer – single collection point for payment/reimbursement of losses	Set-up and ongoing costs are incurred Requirement for Board meetings

The broker's role

- Collate underwriting information
- Identify client's risk appetite
- Loss modelling
- Programme design
- Presentation to and negotiation with prospective markets
- Report to client
- Implement programme

Communication

3-way process

- **Client**
 - Insurer meetings
 - Transparency
- **Broker**
 - Understand and articulate client's business and risk financing objectives
 - Drive the process
- **Insurer**
 - Transparency
 - Innovative and solution driven

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WINNER


National law firm of the year
Legal Business Awards 2010

**An insurance deductible – risk or
reward?**


Claims management

Laurence Ives
Hill Dickinson LLP

Key objectives

- Accurate reserve provisions in accordance with your reserving philosophy
 - Achieve a reduction in overall indemnity spend
 - Reduce average lifecycle of claims
 - Enhance existing relationships with your broker / insurer
 - Deliver high quality management information
 - Internal and external stakeholders
- 

Options


- In house
 - Broker
 - Insurer
 - Captive
 - Claims management provider
 - Specialist company
 - Loss adjuster
 - Lawyer
- 

In house

Advantages

- Direct control
- Integration within the business
 - Customer Services
 - Fleet Management
 - HR
- Understanding of company philosophy & strategy
- Brand protection

Disadvantages


- Insurer/re-insurer support?
 - Costs of employment
 - Availability of skills/expertise
 - IT systems
 - Ability to detect and manage fraud
 - Identifying/managing experts
- 

Insurer / broker

Advantages

- Potential cost savings/ integration with premium/fees
- Infra structure in place
- Technical & customer service skills
- Established relationship with re-insurers
- Easy/low risk option

Disadvantages

- Conflict – spending your money!
 - Cheap premium = cheap service
 - Priorities not always financially focussed
 - Management Information generally poor
 - Run off service – multiple providers
- 

Claims management company

Advantages

- Choice of providers
- 'One stop shop' - single source or strategic partners
- Independent solution
- Established insurer protocols
- Sophisticated pricing options
- Benchmarking capability
- Insurance cover more transportable


Disadvantages

- Process driven approach
- Financial stability
- Conflict with other clients in your sector?
- Conflict between insurer/client
- Regulation – FSA/SRA


Considerations

- Key performance indicators
- Reserving philosophy
- Delegated authority
- On site investigations
- Brand protection & reputational risk
- Audit
- Who pays for the service?

‘Closing the circle’

- Claims management needs to be fully integrated with your risk management strategy
 - 24/7 support to manage a major incident – included within BCP
 - High quality management information to assist analysis
 - Training and education
 - Lessons Learned and ‘best practice’
 - New and emerging risk
- 

Driving positive behaviours

- To manage risk effectively all levels of the business need to buy in
 - Clients with multiple sites/offenders should consider potential to recharge
 - Internal functions need to be joined up
 - Target poor performing sites
 - Reward star performers
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Risk or reward?

Charles Bagot
Barrister

HILL DICKINSON

Hardwicke

Risk or reward?

Legal implications of
deductible insurance
programmes and strategies
to manage them.

Charles Bagot, Barrister



Risk or reward?: legal implications & strategies to manage them

- Conflicts of interest
- A word about Third Party Rights
- Claims handling and strategies for lowering premiums/managing risk
- What about health and safety enforcement?

Conflicts of interest?

- Arise whether or not have 'high' deductible
- Particular conflicts with deductibles
- Claims handling/ communication is key to managing/avoiding conflicts



Particular areas for conflict

- Claims at the margin of the deductible
- Disputes in management of cases: one wants to settle, one wants to fight
- Where disparity between value of claim relative to deductible & cost of defending (depending on who pays legal costs)
- Coverage/aggregation disputes
- What about an example...

- Insurer pays legal expenses
- Potential value of claim high relative to deductible
- Early offer made by C at a high level relative to deductible
- Good prospects of reducing claim below deductible at trial
- **Insurer's interest:** to reduce claim below the deductible and keep legal expenses low by settling early, at or below deductible
- **Insured's interest:** to reduce claim as much as possible by fighting on. May wish to fight all way to trial if there is a chance judgment may be below settlement offers.

Getting it wrong will cost you dear!

- May need separate legal representation
- Legal team may get in hot water if continue to act in face of conflict (Colonia case)
- Potential loss of cover for insured
- Insurer may have waived right to decline cover
- Incurring huge legal fees to argue about indemnity (& having to pay to defend the claim in the meantime!)

Strategies for avoiding conflicts

- Risk analysis & adopting deductible programmes for sound reasons- 'eyes open'
- Planning ahead for claims management: policy terms on claims control etc
- Maintaining good communication
- Having a handling, broking, legal team (solicitors *and* counsel) & insurer who understand your business/ claim type/ add value
- But we understand it's 'horses for courses'

A backlog of cases?

Poor claims management is fertile ground for conflicts. Causes also include insurer or the legal team. Good claims management systems internally and externally is vital.



A word about Third Party Rights

- Third Parties (Rights against Insurers) Act 2010 received Royal Assent on 25.3.10 [not yet in force]
- TP can sue insurer direct (no need to establish liability of insured first)
- Some defences removed
- No specific impact on high deductible policies
- Deductible element still cannot be recovered against insurer where insured is insolvent

Claims handling and other tips

- Who covers legal costs? Big issue... Jackson LJ's recommendations = no costs recovery from claimant if you win!
- Plan ahead- accident reporting & protocols to investigate, preserve evidence and witnesses will pay dividends
- Failure to investigate etc early can mean settling cases which could have been defended...

When to fight and when to settle

- Getting it wrong is very expensive
- Look out for potential fraud (£2 billion p.a.)
- Carry out regular audits/monitoring, reserve & strategy reviews
- Do not pigeon hole claims (liability, value, fraud): keep under review
- Team work, e.g. seek in-house training by your legal team & share expertise

H&S Enforcement: does it matter?

- Prison is now an option for H&S breaches/fines are higher (2008 Act)
- Corporate manslaughter prosecutions are being brought (2007 Act)
- Publicity orders now in force – 15 February 2010
- Think about the 'cost': financial & moral

H&S enforcement: tips

- Are legal defence costs included?
- Do you have access to rapid advice/ representation? Early mistakes can be costly and a civil claim is likely to follow
- Knowing your team/ them knowing your business is as important as with claims
- Make H&S a positive culture from the top down. Reward/Incentivise. Identify the benefits/savings to all, not just the 'costs'

Benefits of positive H&S attitude

- Lower accident rates
- Lower premiums
- Less risk of prosecution
- Improved industry standing/awards/publicity
- Win more business/tenders
- Reduced absenteeism/staff turnover
- Last but not least... Bigger profits!

**Anyone fancy
a high
deductible?**

**Charles Bagot,
Barrister**



"A deductible insurance programme – risk or reward?"

Barry Pitcher

Findus Group



HILL DICKINSON



"A deductible insurance programme - risk or reward?"

"THE GREAT THING ABOUT NOT UNDERSTANDING
YOUR RISKS IS THAT FAILURE COMES AS A TOTAL
SURPRISE AND IS NOT PRECEDED BY A PERIOD OF
WORRY AND DEPRESSION"

Barry Pitcher, Findus Group



Business philosophy

It is our business

It is our risk

We will control the risk

Some areas for discussion EL,PD/BI, MPT/APT, motor

- PD/BI – our overarching business driver – If we lose one of our facilities today, we must be able to supply tomorrow.
- BIA is our total driver. We identify every product stream through every site and have plans for transfer.
- Example. Thursday March 8 2007 01.15hrs. Total loss of scampi processing facility in Annan through fire. Monday 11 March full transfer of production in Grimsby commenced. No loss of sales, no BI loss. ICOW fully accounted for.
- Our insurers fully understand our BCP/BIA process.

- Lord Levene reported: “The tort crisis is not just an insurance industry problem. The cost of the tort system is like a 5% payroll tax. It is a tax without representation at the most basic level and is growing.”
- There is strong evidence that the compensation culture is starting to plunder the UK economy
- What we have seen is a rapid growth of the “were you injured anywhere at all, and could somebody, no matter how remotely be to blame” approach.

- Payments by re-insurers on bodily injury claims above £250,000 are rising by 20% per annum.
- Over 60% of companies see an overall increase in the cost of claims to business.
- 60% feel the fear of compensation is hampering their business.
- 49% said it diverts financial resource.
- 75% see the current growing trend as creating an unsustainable burden for industry, commerce and public services.
- Note: I didn't know how badly I was injured until I saw my solicitor.

Faced with these problems, what is our plan?

- Close the business
- Sack the staff
- Accept all the increased costs
- Pay increased insurance premiums
- Emigrate

- Controlling risk is about self action
- It is not just about having a policy
- It is making it happen
- It is about action and control
- It is positive risk reduction NOT risk transfer
- All too often the first question when something is required in risk management is – how much will it cost?
- Reverse the question – HOW MUCH WILL IT SAVE?

So how do we control this?

1. Management acceptance and ownership
2. Managing and reduction of risk – do not rely on minimum compliance
3. Accident reporting and investigation
4. Training of key staff
5. Management of insurance claims – DO NOT let them manage you
6. Set long term objectives, build on strengths and success
7. Reduction of premiums

DO NOT PANIC

- There is no need for knee jerk reactions
- When dealing with claims, be honest – if you caused the incident, settle the claim quickly
- If you did not cause the incident defend this from the first solicitors letter
- Accept that you will not be invited to the Law Society dinner

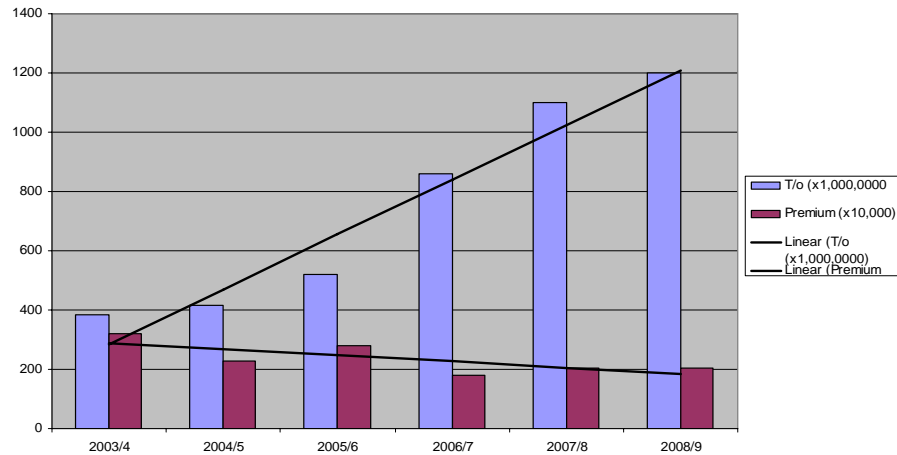
- DO NOT let short term commercial decisions influence your decision to defend a claim
- Some sectors are all too ready to write a cheque thinking they are saving the costs by ignoring liability and settling
- Set your long term message – spurious claims WILL NOT BE ACCEPTED
- Take a proper decision on liability, fight the cases to be fought, have the claimant pay the costs

Benefits

Sector	Wage roll (£m)	Average Rate (%)	EL Premium (£)	PD/BI Loss Limit	Deductible	Average Rate
Findus	75	0.13	92,000	108M	250k/250k	0.07.7%
Dairy	88	0.77	671,000	?	1M	0.19%
Confectionary Retail	45	0.8	360,000	100M	100k	0.38%
Beverage	85	0.8	680,000			
Food	45	1.04	468,000			
Meat	62	1.28	793,000	120M	250k	0.26%
Food	250	1.28	3,200,000	?	4M	0.14%
Food	111	1.44	1,598,000			

Benefits

Turnover v - Insurance Premiums



Summary

- Understand your business, let your insurers understand your business.
- Balance your deductible to your risk appetite and most importantly your capabilities.
- Manage your EL claims. Make sure you have the right legal team. Your legal team must fully understand your business and capabilities.
- You must have a fully looped team – broker, insurer, legal team.
- The prize to businesses – “several £’s per year”

Risk appetite - what is it, how do we measure it?

- The first stage is to fully understand your cost of risk.
- Insured cost + uninsured cost + cost of compliance
(Insurance) + (Deductible) + (Risk Control cost)
- How confident am I in my risk management procedures?
- If it goes pear shaped, how much can I stand as a business before it hurts?
- Am I confident that a deductible (E&E + Aggregate) has procedures to control it?
- Acquisitions – how do we deal with this area?

Summary

- Risk reduction and control can give real benefits. Pound swapping on deductibles is not sustainable.
- You will only reap the benefits of deductibles with control. Deductibles are not 'FREE'.

"A deductible insurance programme - risk or reward?"

You decide.

Q&A

Close

