



COVID-19 Property Damage and Business Interruption

Claim Notification and the FCA Test Case

Policyholders who have thus far notified their insurers of Property Damage and Business Interruption (PDBI) claims for their losses resulting from the COVID-19 pandemic have generally found that insurers are unwilling to accept them. In some instances this is because there is a large amount of legal uncertainty as to how different PDBI policy wordings should respond to a pandemic and how courts will judge policy language in light of these unprecedented circumstances.

In order to try and bring some certainty for policyholders the UK Financial Conduct Authority (FCA) has recently announced that it intends to bring a test case before the High Court in late July (with the court's decision to be released at an unspecified date thereafter).

The FCA will ask the High Court to answer a [number of questions](#) which they consider need clarification to resolve uncertainty on cover. These questions will be supported by a number of [example policy wordings](#) and [factual scenarios](#) which the Court will use to determine how the law applies to COVID-19 business interruption claims. Many policies (particularly those including cover that does not require there to be damage) will be affected by the outcome of the test case.

Where policy wordings are unclear the Court may be sympathetic to policyholder arguments that there is in fact some cover for COVID-19 losses. Alternatively, the Court may consider that wordings do not afford any cover for policyholders and that a claim cannot be pursued. In any event the court judgment will be widely used by policyholders, brokers, legal representatives and insurers to determine any disputes relating to COVID-19 PDBI claims.



What should I do now?

It is important to note that this test case could potentially change the law as to what losses fall for cover under a PDBI policy.

Should you have a PDBI policy and you believe that you have sustained losses as a result of the COVID-19 pandemic, it is important you consider (if you have not made a notification already) whether you may have a claim. If you think you may have a claim or are uncertain you should contact your Lockton representative to discuss the matter further. In order to ensure that any potential claims are notified as promptly as possible we would recommend getting in touch as soon as you can.

A detailed update as to the FCA claim can be found on our website [here](#). The FCA have set up a website dedicated to the test case which includes all documents currently made available to the public. This can be found [here](#).



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