



LUCAS FETTES
& PARTNERS

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WELCOME TO ARENA

EXCLUSIVELY FOR CORPORATE CLIENTS OF LUCAS FETTES & PARTNERS

It's our winter issue of Arena and I would like to wish all of our clients and contacts a Merry Christmas and Happy New Year.

Our business is moving steadily forward and we are finally settling in to our new Lombard Street premises. The contractors are down to a final snagging list and we may even have our television in reception working soon.

Insurers (and apparently reinsurers) are not forecasting any imminent rate rises. Their drive is one of greater efficiencies to reduce their expense ratios, both in terms of electronic trading and reducing their agency outlets - and sadly local representation.

Our clients are proving very loyal and in the main seem to be doing well. We appear to be attracting new personnel and increasing our market share – long may this continue.

In essence therefore, we will concentrate on what we do best – providing a comprehensive and caring service to our clients whilst keeping a careful eye on the economic climate.

Robin Lucas, Managing Director

NEWS...

NEW LUCAS FETTES WEBSITE...

For some time now we have been aware that our website needed updating to improve user experience and increase overall site performance.

We have now launched the new site so please log on and take a tour at www.lucasfettes.co.uk. We hope you enjoy the new website and we would be interested in your feedback.



HEAD OFFICE MOVE...

Lucas Fettes & Partners have relocated our head office to Lombard Street in the heart of the City of London.

The move, which comes after almost 20 years in the current head office in the West End, marks a new era for the company and solidifies our commitment to be one of the leading providers in the insurance and financial services industry.

The relocation of our head office marks a significant move forwards in the development and growth of Lucas Fettes and Partners. The amalgamation of all our London offices into one office in the City is a big step forward for us as we continue to raise our profile and standing in the insurance and financial services industries.

MANAGEMENT LIABILITY INSURANCE

Are you covered for today's risks

Private companies have always been thought of as low risk. The reality is your business faces many new risks. Regulatory investigations, employment issues and other legal claims are all now part of every day business life. Even winning a case can cost you time, money and damage your business reputation.

DID YOU KNOW?

- Your company is 10 times more likely to have an employment tribunal than suffer a loss through fire.
- Race discrimination awards average approximately £20,000 per award (not including the legal costs you would need to pay).
- Directors can face up to 2 years imprisonment for serious health and safety breaches.

SO HOW CAN YOU REMOVE THE RISK TO YOU AND YOUR COMPANY?

Lucas Fettes & Partners have addressed the problems faced by private companies

by recommending our clients consider buying the new AXA Management Liability Product. This product provides comprehensive cover as standard, protecting both the company/organisation and your personal assets. Previously, "traditional" Directors' & Officers' Liability cover has only protected the individuals and not the company itself.

ANY ONE CLAIM LIMITS – no limitation on number of claims that can be made in any one period. This is currently unique to AXA; other insurers only offer aggregate cover meaning an innocent director could be left uninsured if the limit of cover is exhausted by other directors.

WIDE COVER AS STANDARD – COVER FOR:

- employment, such as unfair dismissal and harassment
- regulatory intervention, such as Health & Safety, Tax and Environmental Investigation

- other claims including pensions administration and employee dishonesty.

ACCESS TO FREE LEGAL ADVICE HELPLINE

- Included within cover is access to free legal, employment and regulatory advice provided by one of the UK's leading solicitors.

BENEFITS TO YOU:

- peace of mind that your assets are not placed at risk in the event of a claim
- saves you and your business time and money in the event of a claim.

HOW TO GET A QUOTE:

- cover is available via a simple pre-priced proposal form.
- simply contact your local Lucas Fettes & Partners office for more details.

BRIBERY ACT 2010

Introducing stricter bribery laws in the UK

Possibly, the most controversial aspect of the new Act is the introduction of the offence of “failing to prevent bribery” which can only be committed by commercial organisations (companies and partnerships). The offence will arise where a person “associated” with the organisation bribes someone to gain business or some other commercial advantage.

A person is associated with an organisation if it performs services for and on behalf of that organisation. This will include employees, agents and subsidiaries but may also cover contractors and suppliers. As such, it is clear the offence is intended to be broad in scope and any business or individual prosecuted under this Act will face heavy penalties if convicted.



The Bribery Act 2010 (“the Act”) has been introduced in response to pressure for worldwide anti-corruption legislation and establishes much stricter bribery laws in the UK. Under the Act, bribery is defined as giving someone a financial or other advantage to encourage that person to perform their role improperly, or to reward them for already having done so and introduces the following 4 offences:-

- (1) paying a bribe;
- (2) receiving a bribe;
- (3) paying a bribe to a foreign official
- (4) failure by a commercial organisation to prevent bribery.

ADEQUATE PROCEDURES TO DEFEND YOURSELF

There is a potential defence available to organisations if they can prove they have “adequate procedures” in place designed to prevent people associated with them committing acts of bribery. The Government published guidance on what amounts to “adequate procedures” in March 2011 – a copy of which can be found at www.justice.gov.uk/guidance/making-and-reviewing-the-law/bribery.htm.

The guidance sets out the following 6 key principles intended to give commercial organisations a starting point for planning, implementing, monitoring and reviewing their bribery prevention procedures:

(1) Proportionate procedures

The guidance acknowledges that the procedures an organisation puts in place to deal with bribery will vary depending on the level of risk and size of the organisation. As such large organisations might need to do more compared with smaller organisations.

(2) Top-level commitment

Top-level management must be committed to preventing bribery. This will include involvement in the development of the organisation’s anti-bribery policies and procedures and communication of these both internally and externally.

(3) Risk assessment

Organisations must assess the nature and extent of their exposure to potential risks of bribery. This may form part of an organisation’s general risk assessment or be carried out as a separate process.

(4) Due diligence

It is important that organisations know exactly who they are dealing with so they can ensure appropriate bribery prevention measures are put in place. The level of due diligence needed will vary depending on the risks faced.

(5) Communication (including training)

Organisations must ensure that their policies and procedures are clearly communicated to staff and others who perform services on their behalf. In this regard organisations may want to consider additional training or awareness raising.

(6) Monitoring and review

Bribery risks will change over time and as such, an organisation’s policies and procedures should be kept under regular review.

The guidance also contains 11 case studies at Appendix A which consider how the above principles may apply in certain hypothetical situations.

PENALTIES

If any individual is convicted of an offence under the Act they could face up to ten years in prison and/or an unlimited fine. If an organisation is convicted of an offence they could face an unlimited fine and/or potentially be prevented from tendering for any public sector contracts.

PRACTICAL IMPLICATIONS

Much has been written about the Act and its likely impact on business. Some commentators have even questioned whether the corporate offence would extend to taking a prospective client out to dinner. The guidance makes it clear however that the Government does not intend that genuine hospitality or similar business expenditure which is reasonable and proportionate be caught by the Act. It goes on to explain that where hospitality is considered to be a cover for bribing someone, the authorities would look at a number of issues including the level of hospitality, the way it was provided and how much influence the person receiving it had on the ultimate business decision.

Notwithstanding the above however, given the potential consequences for organisations and/or individuals if convicted of an offence, it would be advisable to give some thought to the issue of entertaining clients and accepting/giving gifts, particularly for those who work in sales. With this in mind, organisations may want to put together a specific policy or memo to go out to staff to outline the company’s position to ensure they are protected and, if necessary, can rely on the “adequate procedures” defence.

REMOVAL OF THE DEFAULT RETIREMENT AGE

How will the new legislation affect Group Risk Benefits?

CURRENT SITUATION

The Labour Government first raised the question as to whether or not the existence of a default retirement age was appropriate or necessary in modern society. Under the new Coalition Government a consultation document was published in July 2010 setting out proposals and seeking views on the removal of the DRA.

Presently, employers can 'dismiss' employees fairly when they reach the age of 65. All they are required to do is follow a set procedure, notifying the individual 6-12 months in advance that they intend to retire them at 65 and that the employee may request to remain in employment longer. Where an individual expresses an interest, there is no obligation on the employer to let them work beyond 65.

WHY IS THIS HAPPENING?

The removal of the DRA is just one of a number of steps the Government is taking to help encourage people to work longer against a backdrop of changing demographics. The Coalition Government believes it is good for society and individuals alike and evidence shows that keeping more people in work longer helps the economy grow.

The consultation document indicated the proposals will 'help' employers by removing the administrative burden of statutory retirement procedures but many business groups say it will increase the burden of compliance they are forced to shoulder.

HOW WILL EMPLOYERS BE AFFECTED?

The transitional arrangements for phasing out the DRA have been completed and were removed completely from October 2011. Any retirements notified using the DRA, where the retirement age occurred before 1st October 2011, is still allowed provided the procedures set out in the Employment Equality (Age) Regulations 2006 are followed correctly. After that date if an employee is compulsorily retired by an employer, unless the employer is using an EJRA (Employer Justified Retirement Age), this could be treated as unfair dismissal.

HOW WILL GROUP RISK BENEFITS BE AFFECTED?

A key concern was the unintended consequences the removal of the DRA would create for employers who offer group risk benefits, such as income protection and group life cover.

However, following lobbying from employers and insurers, the Government confirmed that group risk insured benefits will attract an exemption from the principle of equal treatment on the grounds of age. In simple terms, employers will be allowed to withdraw insurance or a related financial service when an employee reaches age 65 (or state pension age, if higher). These exemptions will only apply where the benefits are provided to all of the employer's workforce or a class of its employees.

IMPACT ON GROUP RISK BENEFITS

Without this exception, employers would face the risk of increased costs by having to extend cover for employees of any age. For many employers, this would most likely have resulted in a withdrawal or scaling down of benefits.

Some clarity is needed from the regulations on the following issues:

- No reference has been made as to whether group critical illness is included in the exemption;
- Only insured benefits have been mooted. It is not clear whether the exemption will apply to self insured arrangements. If not, employers who operate such schemes may wish to consider switching to an insured arrangement;
- It is not yet clear whether employers will be able to use maximum ages that exceed the State Pension Age. Currently employers may still allow group risk benefits to apply beyond age 65.

The new regulations will not protect an employer from liability where the withdrawal of an insurance benefit amounts to a breach of contract. Breaches of this particular type of contractual entitlement can be hugely costly. Employers may wish to think about seeking legal advice to review existing contracts of employment to be satisfied they are legally entitled not to provide these benefits.

LUCAS FETTES, NCVO AND SCOTTISH WIDOWS LAUNCH WORKPLACE PENSION PROPOSITION FOR THE VOLUNTARY SECTOR

SCOTTISH WIDOWS

ncvo

LUCAS FETTES & PARTNERS

Working together with the National Council for Voluntary Organisations (NCVO) and Scottish Widows, Lucas Fettes have launched a workplace pension and employee benefits proposition to meet the specific needs of voluntary sector employers and employees.

The proposition incorporates a combination of Financial Advice from Lucas Fettes, the award winning Scottish Widows Group Personal Pension and mymoneyworks (the online financial education and planning facility).

Richard Williams, Director of Enterprise and Development at NCVO, said: 'Creating this unique offering with Lucas Fettes

& Scottish Widows provides the best of both worlds for our members and other voluntary organisations. This workplace pensions solution has been designed to add real value to both voluntary sector employers and their employees, combining the latest technologies with competitive pricing and access to financial advice, helping employees consider their financial futures. Many of our members

will value the advice and support they can access through this service to enable them to deal effectively with these new regulations.'

If you require further information on this new scheme, please visit our microsite at www.scottishwidows.co.uk/ncvo or contact us on 0845 357 8910, email us at ncvo@lucasfettes.co.uk



A NEW TWIST TO BUSINESS INTERRUPTION INSURANCE

Traditionally business interruption was insured on a sum insured basis however, with the difficulties of estimating a precise sum insured and the policy being subject to "Average" (the client being proportionally responsible for any underinsurance), this led to the advent of Declaration Linked policies.

Declaration Linked policies are "Average" free policies. Primarily, this is because the estimated sum insured is increased by 33 1/3% to allow for the effects of inflation and to give a significant margin for any potential shortfall in the sum insured. The insurer is then able to recoup any additional premiums for any underinsurance when the actual gross profit figures are known and declared to the insurer, within a reasonable period, after the end of the insurance year.

It has long been recognised that in some cases the increased sum insured of 33 1/3% is not being used as a buffer, (as intended), but rather as a means of reducing the estimated sum insured. With few insurers actually chasing outstanding declarations, insurers are not obtaining the correct premium for the risk and, in all but the largest of claims, are unable to redress the element of underinsurance.

Aviva are the first to have revised their Declaration Linked policies to counter this problem. They will now apply "Average" to any policy where, at the time of the loss, the estimated sum insured is less than 50% of what it should be. Effectively they accept that, for whatever reason, estimated sums insured are not always accurate, but in cases where this is grossly under estimated they will apply "Average".

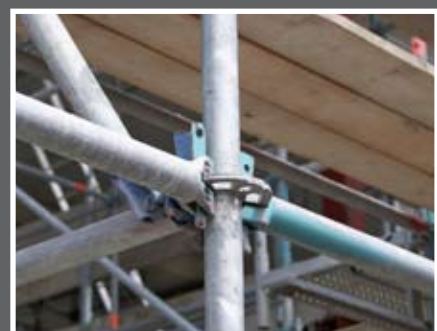
This will apply to all claims, irrespective of size.

Whether other insurers follow Aviva's lead remains to be seen but it wouldn't surprise us if similar policy wordings follow. Irrespective, what is clear is that business interruption is an integral part of any clients' insurance programme. Not giving sufficient time, thought or attention to the risks involved and the covers and solutions that are available could prove to be extremely costly.

If you would like to know more about business interruption or require an insurance review, please contact your local Account Executive or contact us via our website to ask for further details.

THE BUILDERS ARE IN Have I told my insurers?

Are you having some work done on your home - an extension, a loft conversion or renovating your property? If so you will need to get your insurer's agreement. Failure to do so could mean that any claims that arise during the period of works may not be covered. Insurers ask that any material change in underwriting information be notified to them as soon as possible - for example, if an outside wall is taken down or scaffolding is erected, this allows a burglar easier access. Use of a naked flame by contractors will increase the risk of fire.



Once your insurer is aware of any works, they may wish to impose restrictions in cover such as excluding accidental damage and theft or attempted theft to be restricted to forcible and violent entry. However, depending on the type of works that are being carried out further restrictions in cover are likely to apply.

High Net Worth policies such as those with Hiscox, Chubb, Aviva, Oak and Sterling

only require works to be notified if the contract value exceeds £50,000 and/or the building works involve the application of heat or the property will be unoccupied during the works period. Standard policies require works of any value to be notified.

Your Home Insurance does not automatically include cover for any works or materials, some home policies can be extended to include the works and

materials upon request. Alternatively, the builder may have his own policy covering the works and his liability. If not, a separate policy will need to be arranged to ensure you are covered for all aspects of the works.

Failure to advise insurers prior to any works starting could result in a claim being repudiated due to non disclosure so if in doubt let your broker/insurer know who can give you the best advice.

HIRERS BEWARE – CPA CONDITIONS APPLY

Potential problems for the unsuspecting hirer

Although generally related to the Construction Industry, any company involved in the hire of plant, scaffolding and other equipment for site use and/or access to buildings etc, should be aware of the requirements under the Contractors Plant Association (CPA) conditions. Under same, the hirer is responsible from the time the plant leaves the depot of the owner until it is returned thereto. This situation can be riddled with problems for the unsuspecting hirer who sometimes only requires a piece of equipment for a few days as opposed to longer term contracts leading to several years.

Transport of Goods

The hirer is responsible for the machinery in transit unless this has been arranged by the owner on own vehicles or sub-contracted to a haulier carrying goods, subject to the conditions of The Road Haulage Association or similar. If the hirer arranges transport from the owners' depot or another site the responsibility for insurance rests with them. Some haulage conditions will limit their liability to a value per tonne which may not be adequate for items of large plant. There can also be discrepancies with plant toppling etc, as to who is responsible for fixing the item on the vehicle prior to departure on journey.

Termination of Hire

Although the hirer telephones the owner to notify them that the plant is no longer required, it is still the hirer's responsibility until it is collected. However, as the plant is now surplus to requirement, it is common practice to place the item in an area where it will not be an inconvenience to the ongoing works and/or on completion of the works to the owners of the property. Thieves are not slow to spot such items of plant and items have "mysteriously disappeared" whilst awaiting collection by the owner.

Motor Risks

Any item of plant capable of self propulsion is subject to the Motor Vehicles (Compulsory Insurance) Regulations 2000 which came into force on 3rd April 2000. In this document, a requirement was made that any item of plant should be insured against third party risks when used on the road or in any "other public place".

The definition of public place is any area to which the public has access. The public would include other contractors/sub contractors, architects and surveyors and even insurance brokers/companies undertaking surveys on site.

Liability Risks

It should also be remembered that if the item of plant is supplied with driver, this person is deemed to be an employee of the hirer for the duration of the hire.

All these risks are the hirer's responsibility and are usually in the terms and conditions which will apply for the hire period at the time of ordering a piece of plant. They tend to be printed on the reverse of letters and/or invoices and assumed to be automatically accepted by the hirer.

Despite best efforts, it is estimated that £70-£100 million worth of construction equipment is stolen each year in the UK alone. Victims of plant theft can and do incur considerable costs and increased insurance premiums are inevitable.

Lucas Fettes specialise in the area of Construction Insurance and have developed specialist insurance markets with tailored policy wordings to protect hirers of plant, not only for damage/loss to the items but also the motor and liability risks connected thereto. Please contact us if you require further information in this respect.

CREDIT INSURANCE

Are you adequately protected against the risk of bad debts?

Credit Insurance (protection against bad debts) has received some bad publicity during the economic crisis. That said, insurers paid out more than £300m in claims during 2009 which undoubtedly saved some companies from collapse.

For our partners, Financial and Credit, the crisis was a time of opportunity, differentiating them from their competitors in terms of their experience, market knowledge and influence with insurers. These factors allowed them to place business and get credit limits underwritten which their competitors were unable to do.

Whilst insolvencies have fallen from their height, there is widespread opinion that this is a temporary situation. The "time to pay" arrangements offered by the Inland Revenue have merely delayed insolvency for some businesses whilst the banks that have relied on government support may not have been willing to be seen to be winding companies up.

There are other factors affecting the UK economy which may lead to an increase in corporate insolvency. Inflationary pressures will be leading to a decrease in

margins for some businesses and more importantly are putting pressure on the Bank Of England to increase interest rates.

Coupled with future cuts in government spending and an increase in personal taxation, it is no surprise that recent forecasts have suggested a slowing of already low growth rates with some people concerned that all the above factors may lead to another recession.

Whilst premium rates initially increased as a response to the economic crisis, there

has been a rapid softening of the market in recent months.

If you are currently insured, we are confident that we will be able to cut costs at your next renewal. If you are not insured, now is probably the time to obtain a without obligation indication of terms.

In the first instance, please contact Sean Trent on 020 7413 2724, email sean.trent@lucasfettes.co.uk or speak to your usual Lucas Fettes contact.



PENSION REFORM SERVICE

Helping employers comply with the forthcoming changes

With the forthcoming introduction of auto enrolment from 2012, all employers over time will be required to make pension provision for their employees. These requirements will have direct cost implications both in terms of the contributions that must be paid to NEST or a suitable alternative arrangement, along with the costs of administration.

Whilst the scheme will be compulsory, the real challenge for employers is to ensure that their employees understand and place a value on the benefit they are receiving, which can be achieved through financial education and advice.

A well designed and implemented benefits package is a crucial factor in the recruitment, retention and motivation of employees at all levels. Whilst traditional benefits solutions are focused on product provision, this alone without consideration of employees wants and needs, competition and communication / advice results in a disappointing outcome for the employer from money spent and a wasted opportunity.

Our pension reform service provides employers with the information and expert support they need to comply with the forthcoming changes. The service

also offers ongoing advice, support and reporting where required.

If you would like more information or to discuss your requirements, email us at pensionreform@lucasfettes.co.uk or phone us on 01603 706820 and speak to one of our qualified advisers.

INVESTMENT OVERVIEW

Euro in the balance

Investment overview provided by Claudia Starr, Prospect Wealth Management

After a dismal performance in the year to September, this quarter thus far has seen equities markets rally: in sterling terms most major markets are up nearly 10%, except for Japanese equities, as usual the diversifier, which are down this quarter. The engines for the equity markets' recent rise were better data from the US (falling unemployment, rises in manufacturing) and expectations that the Euro will be saved with a revised treaty involving fiscal unification, a precondition for Germany to agree to issue common Eurobonds. Fiscal unification means the core Eurozone countries can force the delinquent countries to balance their budgets. Citizens of the stronger member states might balk at the prospect of an endless horizon of transfer payments to the weaker states, where the threat of social unrest will make them fail to keep to budget targets.

Outside the Eurozone, scepticism about the future of the Euro remains. BOE Governor Sir Mervyn King warns of 'extraordinarily serious times' in an 'exceptionally threatening environment'. David Cameron refuses to approve any treaty that involves terms unfavourable to UK growth, such as a financial transaction tax. The expanded European Financial Stability Facility, together with support from national governments, should be

able to cover the banks' losses on the inevitable Greek default, but would not have sufficient capital to stand behind Italian and Spanish debt financing. The European Central Bank has refused to print money to finance debt. The IMF will only contribute funds if Germany is prepared to commit to the future of the euro and Germany will only do this if they see convincing evidence that the Mediterranean countries are willing to restructure their economies. Confidence in the survival of the Euro would be enhanced if the ECB would agree to be the lender of last resort, in the way that the FED is. In the absence of this, Standard & Poor's have put all the Euro countries on credit watch, except Cyprus and Greece, which they already downgraded severely.

With so much at stake it is encouraging that political changes in Italy, Spain and Greece are opening the way to structural rebalancing in these economies. This is reflected in declines in Italian bond yields down from a peak of 7.2 in November to 5.8% currently. By comparison 10 year UK and German bond yields stand at 2.2%. With bond yields this low the current dividend yield of 4% on equities looks particularly attractive. Furthermore, recent positive news from the US economy provides an underpinning to global equity markets.

The murky global growth outlook is the reason why defensive stocks (food and beverage sectors as well as luxury brand goods) have outperformed cyclical industrial and basic materials during the Euro crisis. Pessimists who expect stagflation have been favouring equities with high, safe dividend yields. Amid current hopes that the Euro will be saved, and improving US economic data, the cyclical stocks, having fallen to cheap valuations, have outperformed. Any setback to the Euro rescue, increasing the threat of a European banking crisis, or to the US economy could cause the markets to retreat, with a rotation back into the defensive stocks. Even if a break-up of the euro is avoided, the future is likely to comprise a mix of slow growth and higher inflation. The news could well get worse from here. We are looking to exploit the volatility, to buy quality equities and corporate bonds on market dips.

OFFICE LOCATIONS

BERKHAMSTED
BRISTOL
CAMBRIDGE
CHICHESTER
GLASGOW
FOREST ROW
LONDON (CITY)
MANCHESTER
NEWPORT (IOW)
NORWICH

FOR LOCAL OFFICE CONTACT
DETAILS PLEASE VISIT OUR
WEBSITE

www.lucasfettes.co.uk

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Lucas Fettes & Partners Limited are Independent Insurance Intermediaries authorised and regulated by the Financial Services Authority.

Any references to taxation are based on our current understanding of UK Law and HMRC practice.

HOW TO CONTACT US

If you have any questions relating to the content of this Arena publication or if you have any questions regarding how we can help you with any aspects of protecting your business, we would be delighted to hear from you. Our full contact details are available on our website at www.lucasfettes.co.uk/contact-us

OUR SERVICES

Our network of offices across the UK offer a comprehensive range of insurance solutions and financial services combined with specialist knowledge that is designed to meet both corporate and personal requirements.

Financial Services and Insurance Solutions for Personal clients

Along with our Commercial Insurance, Corporate Financial Planning and Employee Benefits services, Lucas Fettes Financial Services is able to provide unbiased, objective advice to personal clients.

For more details on our full range of services, please contact us or visit our website at www.lucasfettes.co.uk.

INSIGHT

FOR PERSONAL CLIENTS

Insight is our regular publication for both Insurance and Financial Services Personal Clients. To view the latest version of Insight, please visit www.lucasfettes.co.uk

