



SOCIAL PREDICTIONS 2025

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AVIATION

1. Regulating amateur ballooning

UK amateur ballooning looks set for regulatory oversight in 2025. Currently, the UK's Civil Aviation Authority (CAA) neither regulates nor publishes guidance for competition balloon flying in the UK. While guidance is published by the British Balloon and Airship Club (BBAC), the BBAC is a sporting body and not a regulator. A fatal balloon accident in June 2023 is seen as the catalyst for change. The UK's Air Accident Investigation Branch reporting in May 2024 made two safety recommendations to the CAA as regards the need for published safety guidance. On 9 August 2024, the Coroner published a Prevention of Future Deaths Report directed to the CAA and advocating for a review of the regulation of balloon flying in the UK, considering in particular whether there should be regulation of the design, construction, inspection and testing of amateur or home-built balloons, and of competition balloon flying.

BERMUDA MARKET

2. The wave of biometric class actions will intensify

The growing wave of class actions in the United States related to biometric data privacy violations will continue to rise, with the state of Illinois at its forefront with its Biometric Information Privacy Act. There have already been a number of significant settlements with companies like Facebook, Google, TikTok and Meta in various states, with further actions expected. Enforcement efforts are expected to continue, particularly in California, with clarity on enforcement expected from its Supreme Court. Legal challenges over insurance coverage for biometric data privacy claims will also develop as jurisdictions interpret cover for novel actions.

3. Momentum will continue to build in 'polluter pays' climate litigation

While activist litigation has been high profile across several jurisdictions in 2024, 'polluter pays' litigation based on contribution to harm caused by climate change will continue to progress. In the US, a series of claims have been issued by states and municipalities against fossil fuel companies, including in *City & County of Honolulu v Sunoco LP*, based on the defendant's allegedly deceptive marketing and its failure to warn of the climate change impacts of its products. A petition filed by the defendant arguing that the claim should be dealt with federally is outstanding in the US Supreme Court and, in June 2024, the Supreme Court invited the Solicitor General to file a brief expressing the views of the US. Other actions do not seek damages, but rather funds for remediation. Outside the US, we continue to watch similar cases brought by individuals (often from the Global South), such as *Lliuya v RWE*, which has now reached the evidentiary stage. This stage itself has the potential to effect substantial change and momentum as further information comes to light. If successful, these claims will result in significant damages awards against carbon majors and precedent for yet further classes of action.

4. PFAS litigation expected to grow in number, while issues narrow

PFAS litigation citing environmental contamination and product-related exposures is predicted to rise as states and municipalities in the US enforce regulations and pursue actions regarding contaminated water. However, the prominent multi-district litigation in South Carolina leading the pack has narrowed, both in terms of active defendants (following recent substantial settlements) and scope (focusing on certain classes of alleged bodily injury). Nevertheless, new plaintiff groups will continue to emerge and new defendants will likely also enter the litigation arena as the scientific research and regulatory scrutiny intensifies.



CASUALTY

5. Hillsborough Law duty of candour will be introduced by April 2025

Before any legislation for the proposed Hillsborough Law is introduced, there will be fundamental questions to be addressed, particularly over the implications of the planned duty of candour on the right to silence and the right against self-incrimination. Following the King's Speech and the Labour Party conference, Sir Kier Starmer promised that the Hillsborough Law will be introduced in Parliament before April 2025 to establish a legal duty of candour for public authorities in the aftermath of major public tragedies. Back in 2017 when the original Public Authority (Accountability) Bill was introduced by Andy Burnham MP, its aim was to "protect other families from going through what the Hillsborough families went through and from a similar miscarriage of justice." The Bill fell due to the general election in 2017 and there is currently no draft legislation before Parliament. It is anticipated that any future wording will closely align with that of the 2017 Bill.

6. Consultation on contempt of court will generate debate

The Law Commission consultation on contempt of court closed in November 2024, and its conclusions will lead to a longer term debate about the need for change in this area. The wide-ranging consultation reviewed the existing law on contempt of court, considering the need for reform to improve effectiveness, consistency and coherence. The Law Commission proposed that the two-year maximum sentence for contempt should remain. As an important tool for insurers when tackling fraudulent claims, our own response to the consultation agreed with that proposition. The maximum sentence should be applied more frequently if contempt is to be used as a true deterrent, although it is apparent that while Operation Safeguard (on prison overcrowding) remains live we are unlikely to see an increase in the number of or severity of contempt sentences being applied.

7. Injury claims from school environments expected to grow

Growth is expected in a wide range of claims relating to school environments, encompassing both injury claims and those based on the Equality and Human Rights Acts. Such claims cover a wide range of scenarios, from direct physical assaults perpetrated at student/student and teacher/student level to the misuse of equipment and claims arising out of alleged defects in the fabric of school premises. Reinforced Autoclaved Aerated Concrete (RAAC) has been identified in over 22,000 schools and the presence of remedial works, in some cases together with temporary and adapted buildings, is likely to increase risks and the potential for claims.

8. Silicosis claims set to increase

The number of claims reported via applications for Industrial Injuries Disablement Benefit arising out of silicosis is rising. The UK has not seen the large scale litigation which is ongoing in Australia and the US and similar class actions are unlikely in this country. A recent article in the British Medical Journal suggested that the use of engineered stone should be prohibited given the risk associated with it, though we are not aware of any intention on the part of the UK government to impose such a ban. There is an increasing awareness of the risks of silicosis. While this has yet to translate to claims, given the latency period between exposure and manifestation of symptoms, such claims may still be several years away.

9. Highways claims will be full of (pot) holes

We anticipate that the widely reported trend of problems arising out of road surfaces, such as potholes and general surface degradation, is likely to continue upward both in relation to own policy and third party claims. Road surface issues give rise to risks not just in respect of vehicle damage but also for vulnerable road users such as cyclists and motorcyclists, with highway authorities increasingly having to defend their inspection and repair procedures. As own policy claims increase, it is likely that there will be a concomitant rise in recovery actions by motor insurers. Increased repair costs generally across the motor market are likely to have significant upward impact on the value of road surface related claims which, combined with a higher incidence of such claims, will result in a costlier claims area for insurers.



10. Harassment of bombing victims will prompt legislation

Proposals to establish legislation to deter and punish harassment of individuals through online misinformation campaigns will gather momentum. A recent High Court decision found that two victims of the Manchester Arena bombing in 2017 had been harassed by an individual who claimed that the attack had been staged, and that the victims were perpetrating a hoax along with others as 'crisis actors'. The claim was brought under the Protection of Harassment Act, and the Court concluded that the actions of the defendant represented a reckless abuse of media freedom. In response to the decision, one of the victims proposed a new law to deter individuals from publishing unfounded opinions and allegations in their efforts to challenge official accounts of serious incidents, causing further injury to and promoting harassment of victims.

D&O AND FINANCIAL INSTITUTIONS

11. The litigation funding market faces a long wait for clarification

The omission of the Litigation Funding Agreements (Enforceability) Bill in the King's Speech in July 2024 was surprising. The Bill would have reversed the Supreme Court's decision in the PACCAR judicial review and clarified the enforceability of litigation funding agreements (LFAs) by amending s58AA of the Courts and Legal Services Act 1990 and confirming LFAs are not damages-based agreements. The government is set to conclude its general review of the litigation funding sector, including the need for greater regulation and safeguards to protect claimants, by Summer 2025. Uncertainty over the enforceability of LFAs is therefore now set to continue for at least another year. Such a long wait is disappointing for the litigation funding industry and restricts the vital funding options available to individuals and small businesses, potentially preventing them from accessing justice and pursuing claims against better resourced corporations.

12. Financial institutions are appointing CAIOs to oversee AI initiatives and reduce the risk of consumer claims

AI has reshaped the financial services industry. It is widely used to summarise information, automate credit and loan decisions, detect and prevent fraud, drive operational efficiency and productivity, and reduce the risk of human error. But if AI learns from incomplete or imperfect data, there is a significant risk of unintended discrimination or unconscious bias, and unchecked reliance on AI could affect large data sets within a customer base and ultimately lead to claims for consumer redress. Recognising the critical importance of AI to corporate strategy and operations and the claims risk, financial institutions are increasingly appointing Chief AI Officers (CAIOs) to oversee the execution and integration of AI projects, promote ethical AI practices, and ensure the adoption of AI aligns with corporate vision and regulatory requirements.

13. New duty on employers to prevent sexual harassment is likely to lead to an increase in claims

On 26 October 2024, a new positive duty on employers to take "reasonable steps" to prevent sexual harassment in the workplace came into force. Employers must now proactively implement measures to embed a respectful work culture through zero-tolerance policies, staff training on inappropriate conduct, and effective and sensitive complaints handling procedures. Neglecting to prepare for this new duty could lead to an increase in harassment claims and more compensation. If an employee succeeds with a claim for sexual harassment and the employer has breached the new duty, the tribunal can increase compensation by up to 25%. The Equality and Human Rights Commission (EHRC) can also investigate and take enforcement action. Action can be taken based on a suspicion of non-compliance; there does not need to be an incident of sexual harassment before the EHRC will consider exercising its enforcement powers.



DATA, PRIVACY AND CYBER

14. CrowdStrike incident will prompt system and supply chain cyber incident discussions

Representing one of the most significant global technology outages since NotPetya in 2017, the CrowdStrike incident will act as a poster child to prompt policyholders and insurers to review their policy wordings and coverage where a systemic or supply chain cyber incident has the potential to cause a massive financial impact. Coverage for non-malicious cyber events, including 'system failure' cover, is not always available or purchased by policyholders, and the CrowdStrike incident highlights its need. The CrowdStrike incident acts as a useful case study to review appropriate interruption periods, 'waiting periods' and retentions for non-physical damage BI cover, if purchased. It also prompts future discussion as to where the line is drawn between a policyholder's software and systems, and a managed services provider. Policyholder reliance on systemically important and vulnerable systems is continuing to increase beyond infrastructure and the cloud, challenging insurers to determine appropriate coverage limits and value appropriate premiums.

15. Data breaches will remain a major concern for data controllers

Threat actors will continue to breach defences and cause loss, with the human factor remaining the weakest part of organisations' security systems. The continued search for the best balance between system security and usability will allow for continued penetration of systems. New challenges such as AI-related scams will create further risk. Although tools such as multi-factor authentication make third-party access harder, with cloud-based systems and resilient back-ups aiding recovery, none represent a panacea. In the future, we anticipate that data will simply be stolen, compared to current trends where data is often encrypted and ransomed against publication. For consumers affected by these incidents, while bank redress schemes may offer some form of remedy, they may encourage threat actors to see data theft as a victimless crime. For businesses, however, there will be no such redress.

16. Data claims will need to evolve

In the absence of a more generous approach by the courts when assessing quantum and costs, the pursuit of data breach claims on behalf of individuals will prove to be a question of financial risk for claimant representatives. Recent decisions have demonstrated the difficulty in succeeding in data breach actions where minimal distress or loss has been caused to a claimant. Alternatively, claimant representatives may look to pursue actions on behalf of numerous individuals in a class action. However, these actions are by no means a guaranteed route to success. The decision in *Farley v Paymaster* saw a significant percentage of data breach actions in a mass claim dismissed for not meeting the appropriate threshold of seriousness, and *Adams v Ministry of Defence* demonstrated the challenges of using an 'omnibus' Claim Form, where multiple claimants are added to a single claim. The Civil Procedure Rule Committee is considering this method of pursuing multiple claims, and this route may be closed off or narrowed significantly upon further guidance. Nonetheless, we still expect that claimant practitioners will explore other avenues to pursue data breach actions in response to judicial guidance and other pressures, as they have done in the past.

EDUCATION

17. Duty of care owed by universities will remain in the spotlight

Two recent decisions, in the *Abrahart* and *Feder* cases, have placed the duty of care owed by universities to their students back in the spotlight. While the High Court declined to make any findings in relation to the duty of care in the *Abrahart* decision, the judge in the *Feder* case found that the institution had breached the duty of care it owed to the students concerned in relation to protecting and supporting them as well as in relation to the disciplinary investigation and communicating (as well as enforcing) the outcome. The *Feder* decision is not precedent setting, but together with the new guidance published by the Office for Students, it is likely there will be an increase in the number of claims by students arising from sexual misconduct and harassment.



18. Protest encampments and direct action at universities is expected to increase

After a summer of high-profile protests at UK university campuses, similar action is likely to increase over the coming year. The political issues giving rise to the protests have not gone away, and activists are becoming ever more organised. Long-term protests can cause myriad issues for staff and students alike: security, health and safety, the risk of intimidation or harassment and possible damage to property versus the right to free speech. Four reported judgments were obtained in July by universities seeking possession of land from occupying protesters, and we see legal action becoming increasingly common as a means to manage and, if necessary, remove protest encampments that have become problematic. We expect more activity in this area as universities review their policies and approach to encampments and look to strike a balance between the right to protest and the protection of staff, students and property.

19. Martyn's Law will significantly impact the education sector in 2025

The aim of the Terrorism (Protection of Premises) Bill 2024 (also known as Martyn's Law) is to reduce/mitigate the risk of terrorist attacks. This will apply to the education sector. When the Bill becomes law it will impose 'standard tier' obligations on those responsible for buildings used for childcare or primary provision and secondary or further education. The government recognises that existing safeguarding policies and procedures mean much has already been done to reduce risk and consequently these types of premises will fall within standard tier regardless of maximum numbers of attendance. The Bill, as currently drafted, draws a distinction between these types of premises and those used for higher education. Higher education premises may well be freely accessible to members of the public, representing a greater risk profile. The sector will need to keep a watching brief on the Bill's passage through Parliament to ensure it is best placed to meet its obligations when it becomes law.

20. Financial pressures will impact the education sector

We expect to see increased financial pressure on independent schools, colleges and universities, with the possibility that this will lead to some closing, contracting or merging. We are already seeing steps being taken by some universities to cut costs to deal with these pressures and mitigate the reduction in applications from UK and international students. While the government has confirmed that the new Finance Bill will bring in changes to the VAT status of independent schools on 1 January 2025, legal challenges have been launched, along with political pressure to delay any changes until the next school year. These financial pressures and uncertainties will also likely result in an increased number of student complaints, including about the standard of course delivery and withdrawal of courses, as well as employment claims and third party contractual claims.

INSURANCE ADVISORY

21. Focus will intensify on neurodiversity in 2025

As the ESG focus swings from environmental and governance issues towards social concerns, and in particular diversity and inclusion, the spotlight will intensify on neurodiversity in the year ahead. This is not just as a matter of social responsibility but as a key opportunity to access fresh ideas and untapped talent for the industry. The Buckland Review of Autism Employment published its report in February 2024, highlighting that 1 in 70 people are autistic and that autistic people face the largest pay gap of all disability groups. There is a wide range of potential barriers to work for autistic people; poor preparation by employers, unfair hiring practices, unclear processes and outdated attitudes all play a role. No wonder only around 35% of autistic employees are fully open about being autistic, with 1 in 10 not disclosing to anyone at work. The report provides recommendations on: initiatives to raise awareness, reduce stigma and capitalise on productivity; supporting autistic people to begin or return to a career; and appropriate recruitment practices and career progression. In order to reap the benefits, a supportive and inclusive environment will need to be provided but tapping into this talent pool is clearly something insurers should continue to work on into 2025 and beyond.



22. The FCA will act against firms it thinks are not delivering good customer outcomes

With the passing of the 31 July 2024 deadline for the first Consumer Duty annual report, the FCA will continue to scrutinise insurers and intermediaries to ensure that they are delivering good consumer outcomes as mandated by the Consumer Duty. Key to this is being able to monitor for and evidence good outcomes, rather than relying on an absence of evidence of poor outcomes. With the FCA noting that it continues to see “substandard service levels across insurance sectors”, we expect the FCA to continue to keep a close eye on insurers and intermediaries and their compliance with the Consumer Duty. The FCA has also flagged significant concerns about failings on the part of both insurers and intermediaries with their product oversight and governance obligations, finding many examples where firms appear not to be meeting regulatory requirements. We expect to see several insurers and intermediaries being required to appoint skilled persons under s166 of the Financial Services and Markets Act, to assess their product oversight and governance frameworks and identify possible harms that may have resulted from non-compliance.

23. AI could lead insurers into a D&I minefield

At the 10th Dive in for Diversity Festival this autumn Sir Trevor Phillips, former head of the Commission for Racial Equality, warned about the potential negative impacts of AI on diversity and inclusion. He put the market on notice that it must be alive to the dangers of drifting into this minefield unawares. As certain roles are reshaped or even eliminated by AI, it is necessary to step back and look at the relative impact on disadvantaged groups, asking whether they are disproportionately represented in those roles. Many in the sector are already concerned about the ability of AI to take over certain functions that were always carried out by junior staff and trainees and how that might impact the future talent pipeline but they must also look at how that might potentially limit access to the industry and its supporting professions, especially by people from diverse educational backgrounds. The challenge will be to create entry points for people that ensure everyone has the same opportunities. With greater scrutiny, measurement and monitoring of all aspects of diversity, businesses could quickly find themselves going backwards and publicly held to account if they do not make this a key focus of their adoption of AI.

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INTERNATIONAL CASUALTY

24. Algorithms and addiction - Action against social media platforms will gather pace

The first bellwether trial against social media companies for addictive product design and other allegations will potentially upend traditional principles on product liability, design of digital products and corporate responsibility. The trial is part of US multi-district litigation brought on behalf of children and scheduled to take place in late 2025. The action alleges intentional creation of products with addictive engagement, driving compulsive use and algorithmic manipulation, resulting in various physical and emotional harms, including death. European regulators, rather than litigators, are challenging social media platforms with the European Commission opening formal proceedings under the Digital Services Act. While we do not expect civil claims to necessarily follow in Europe, the impact of the Representative Actions Directive may alter perceptions on pursuing these types of claims.

25. The line will blur between moral damages and punitive damages

The growing number of nuclear verdicts will prompt further lobbying by defendant organisations to progress tort reform in the US at state and federal levels. Civil juries continue to award multi-million and billion-dollar verdicts, arguably aimed at punishing defendants rather than compensating claimants. These awards are often significantly reduced on appeal, creating uncertainty for defendants, their insurers and plaintiffs. One such instance saw a reduction in a glyphosate-related cancer claim from \$2.25 billion to \$400 million. Any efforts to reduce awards for punitive damages may prompt reconsideration of other tortious concepts including moral damages. Although punitive damages in civil cases are largely limited to the US, there has been a move towards awarding increased moral damages to reflect serious cases of negligence and the protection of human rights in Latin America, particularly Mexico. In the event of tort reform limiting punitive damage awards, US plaintiff representatives may look to develop a similar concept of moral damages in order to maximise compensation for their clients.



LEGAL INDEMNITIES

26. Legal indemnity insurance will unlock the development potential of targeted grey belt land

The national housing shortage is high on the agenda of the new Labour government. Changes to the National Planning Policy Framework will be introduced as the government tries to realise its ambitious plans to build 1.5 million new homes by 2030. We anticipate that the restrictions about building on poor quality/unattractive greenbelt land (known as 'grey belt') will be relaxed. Grey belt sites are usually blighted by one or more title defects, including access issues and restrictive covenants which are unacceptable to funders. In order to unlock grey belt sites, developers will need to work with insurers to cover off the risks by the careful placing of legal indemnity policies.

MEDICAL MALPRACTICE

27. The ongoing growth of AI in clinical practice will continue to raise complex legal questions

The use of AI in clinical practice will continue to grow as sophisticated systems are deployed in the healthcare setting. With this comes an increased risk of patients coming to harm as a result of failures in AI. Faithfulness hallucination is one example of a risk that was simply non-existent in the pre-AI world. Hallucination in the context of clinical note summaries in particular (whereby the AI model generates summary content that is incorrect or inaccurate when compared with the source medical notes) is one area of risk that has the potential to lead to serious consequences. Of course, understanding how an AI device has reached a decision may not be transparent (known as the 'black box problem'), and this of itself is an issue, particularly when considering where responsibility for harm might lie. Choosing then whether to pursue a claim for clinical negligence or product liability (or both) poses yet further questions for a patient that may have come to harm. For healthcare providers and insurers, there will be questions of how to respond to such claims and how blame should be apportioned.

28. Healthcare reforms will see an ever greater role for the private sector in NHS provision

While details of the government's 10-year plan for the NHS are awaited, the Secretary of State for Health in his speech at the 2024 Labour Party conference gave some insights into his vision, saying that "where there's capacity in the private sector, patients should be able to choose to go there too, free at the point of use, paid for by the NHS". As NHS healthcare provision comes to involve an increasingly diverse range of providers, a treatment error by one sub-contractor could have significant ramifications not only for the injured patient but also for the various parties involved in their care. Private sector providers will need to ensure their contractual and insurance indemnity provisions are robust and that they have good risk management arrangements in place.

29. Claims fraud reduction will be an ever greater focus

We continue to encounter incidents of claimants exaggerating their injuries when making claims and in the past year we have secured contempt of court convictions against several claimants in the medical malpractice sector, one of whom was imprisoned for eight months. While convictions do deter dishonesty, more needs to be done. The Law Commission is consulting on whether the law on contempt should be changed. Ideas being considered include allowing convictions based on recklessness rather than full intent, and increasing the maximum sentence cap to more than its current two years. These measures, if adopted, should help reduce claims fraud but there are still many steps to be taken between the consultation and the law being changed.



MOTOR

30. Fraud tactics will continue to evolve

We expect to see continued growth in 'exaggerated loss' frauds, across both injury and damage claims. This expansion goes hand in hand with the layering of claim related costs. There remains a small, but significant, cohort of claims companies and associated enablers who are deploying a business model concerned only with maximising cost generation, regardless of legitimacy or claimant need. Furthermore, insurance application fraud is growing significantly, explained in part by the ever increasing ease of access to software used in the creation of shallow-faked documentation, which can be created using basic photo editing platforms such as Photoshop.

31. Focus on hire and repair costs will continue

The costs of vehicle hire and repairs continue to rise beyond the level of inflation. With the Labour government launching its taskforce to look into the cost of motor insurance, these are two areas that are likely to be a focus. The General Terms of Agreement group has recently announced new rates and work will continue into looking at how the Agreement works and how it can be improved to remove cost and friction. Further progress is anticipated on this in 2025.

32. Further digitalisation expected within the court system

Set against a backdrop of lengthening delays to bring matters to trial, the government is under pressure to reimagine the civil justice process. While digitalisation of the civil justice system will take time, expect to see an increasing emphasis in the use of alternative dispute resolution as parties seek to find quicker, lower cost, non-judicial ways to settle their claims. The system of compulsory mediation in small money claims may still be in its infancy but it is expected that the ambit of the scheme will be expanded to other categories of small claim, and potentially beyond. The work of the Civil Justice Council around Digital Pre-Action Protocols and the recent Court of Appeal decision in *Churchill v Merthyr Tydfil County Borough Council* are both suggestive of a direction of travel which promotes a trial before a judge as very much the last resort.

POLITICAL RISK, TRADE CREDIT AND POLITICAL VIOLENCE

33. Climate change will drive increasing political unrest

Climate change could develop a direct and more obvious correlation with political violence. The effects of climate change are well known - drought, famine and mass migration. Each of these may have a significant impact on the already heightened world tensions and predicted increase in political violence. Already unstable governments may struggle with the increasing needs of their populations in response to a heating planet and changing international views on the subject of foreign aid. The political violence and terrorism market will need to be wary in the coming 12 months when it comes to risks located in areas bearing the brunt of climate change.

34. Organised crime in Latin America will intensify the need for policy wording clarification

As organised crime evolves, insurers need to adapt quickly to address potential legal ambiguities and the growing risk landscape. Certain states within Latin America continue to experience a rise in organised crime, fuelled, in certain instances, by drug trafficking, economic hardship and corruption. Many countries must grapple with cartel-related violence, extortion and kidnappings, further destabilising the region. The political violence insurance sector will, no doubt, have to grapple with the consequences of this rise in organised crime. Insureds often seek cover for organised crime within specialist PV cover; regrettably, these policies often lack precise definition of terms like 'organised crime', which can lead to inconsistent interpretations, in particular by the local courts. Greater attention to even standard wordings at the underwriting stage can avoid unexpected results when it comes to these complicated coverage assessments.



PROFESSIONAL LIABILITY: ACCOUNTANTS

35. There is a risk of mistakes with the evolving and increasing tax burden

The hard choices that the new government said it faced were self-evident in its first budget on 30 October 2024. We saw the manifesto commitments to raise revenue via taxation be implemented in areas such as VAT on private school fees, abolishing the non-dom regime, carried interest (Private Equity) and the Energy Profits Levy. We also saw new taxes, some of which had been trialled and others which were unexpected, including increases in employers' NI, inheritance tax on pensions and agricultural property, increases in capital gains rates, increases in business asset disposal relief and stamp duty on second homes. To balance these additional liabilities against the manifesto's overriding objective to grow the economy, there was greater clarity on the business tax roadmap which includes capping corporation tax at 25% and maintaining the expensing policies. Whether the right balance has been struck between giving businesses enough certainty to have confidence to invest while maintaining flexibility to deal with the inevitable political and economic shocks can only be judged in hindsight. In the meantime, it is the tax advisers who are having to navigate an increasingly complex system to advise their clients on effectively managing and mitigating their tax burden, both in respect of the actual legislative changes and those that are signposted in the roadmap. It is trite but true to say some of these advisers will get it wrong while the new changes bed in.

PROFESSIONAL LIABILITY: CONSTRUCTION

36. A rich seam of claims caused by geotechnical issues

The effects of climate change and the continued drive to build housing stock and commercial premises on previously undeveloped land are likely to drive an increase in the number, type and scope of geotechnical claims. A good example is the increasing prevalence of sinkholes in the UK. When a sinkhole occurs it does so suddenly and can cause catastrophic damage to buildings or even collapse. The increased number of construction projects on land underlain by chalk on greenfield sites, together with more frequent heavy rain events are two key factors. Inundation of the soil/chalk leads to an increase in subterranean voids in the chalk which in turn enhance the risk of collapse, resulting in a sinkhole occurring at the surface. The extreme heat/heavy rain weather-cycle also negatively impacts slope stability resulting in the unwanted movement or collapse of railway/road embankments and cuttings (as well as triggering natural landslides). Geotechnical engineers will be in greater demand at the front end of projects to assess the ever changing landscape of geotechnical risk, but also at the back end when things go wrong and claims result.

PROFESSIONAL LIABILITY: MEDIA AND LAWYERS

37. Ongoing scrutiny of SLAPPs (Strategic Lawsuits Against Public Participation)

There will continue to be scrutiny on the conduct of claimants and their solicitors in litigation, given the ongoing political and regulatory focus on SLAPPs (Strategic Lawsuits Against Public Participation). The new government has reiterated its support for further SLAPPs reforms (which have cross-party support), following the introduction of the early dismissal mechanism to address SLAPPs in economic crime proceedings under the Economic Crime and Corporate Transparency Act 2023 (with new Civil Procedure Rules awaited to bring the mechanism fully into effect). The Solicitors Regulation Authority - which has joined the government's taskforce on SLAPPs - is also continuing its focus on solicitors' conduct in cases that might be deemed to be SLAPPs, following its thematic review on this issue in April 2024 and its updated Warning Notice to solicitors and law firms in May 2024.



PROFESSIONAL LIABILITY: PENSIONS

38. Changes are needed to make pensions fit for purpose in the future

Pensions are to fund the cost of living in retirement, they are not savings vehicles to pass on to the younger generation, was the clear message in the first budget by Rachel Reeves. There are three things to take away from this, even before the consultation on the proposed changes is undertaken. Imposing inheritance tax on remaining pension benefits and maintaining the current imposition of income tax will lead to an effective tax rate of around 67%, resulting in wealthier pensioners almost certainly looking to 'spend the kids' inheritance'. This will be a significant shift from the more usual financial advice on this issue. Then, there is the administrative burden and complexity on providers and executors of the new regime and the inevitable mistakes and claims that will emanate from such a significant change. Finally, we can be confident this will not be the last change we will see. The longer-term benefit in tax revenues of imposing IHT on pensions must be in doubt given that the Institute for Fiscal Studies recently concluded that the assumption, that future pensioners will be in the same position as today's pensioners, needs challenging. Although automatic enrolment has helped more people save for retirement than ever before, it leaves the individual investor bearing all the risk, for example on poor investment choices, insufficient contributions and withdrawing too much too early. The current system also does not meet the needs of those unable to work until they reach the currently escalating retirement age or address the unaffordability of the triple lock on the state pension in the longer term or the worrying low levels of the self-employed saving in a pension plan. It is a long list and some of these are issues that the government may well grapple with during the course of this parliament.

PROFESSIONAL LIABILITY: SURVEYORS AND VALUERS

39. The Renters' Rights Bill will impact property managers and valuers

The Renters' Rights Bill will reform the private rented sector, improving rights and conditions for tenants. Abolition of no fault eviction (and revision of the other possession grounds) will make it harder for landlords to obtain possession, which may impact lenders' appetite across the sector, and therefore prices. Valuers will also need to take into account the proposed new minimum safety and maintenance standards, which will affect whether a property can be used for letting purposes. These proposed new home standards will also impact property managers, who will want to avoid exposing landlords to fines and penalties for letting non-compliant property. Risk exposure may be mitigated through appropriate caveats in a property professional's terms and conditions. On a brighter note, it remains to be seen if the Private Rented Sector Landlord Ombudsman scheme results in a decline in litigated claims brought by tenants against agents.

40. Beware building remediation risks for property managers, building surveyors and valuers

As the dust settles on one of the hottest political potatoes of the last five years - responsibility for building remediation costs to meet the latest safety standards - it is not inconceivable that those left holding the baby might now explore potential recovery opportunities against any professionals who may have advised on the acquisition of buildings, sometimes whole portfolios, for investment purposes. If claims against the original contractor and/or design team are time-barred, despite the Building Safety Act limitation period extensions, there is a risk that this may provoke imaginative and arguably speculative claims against building surveyors, property managers or even valuers who advised pre-purchase. Clairvoyance does not fall within the scope of the duty owed, but scrutiny of who knew (or should have known) what and when may well provoke accusations of failures to warn and flag valuation uncertainty.



41. The future looks bright for residential surveyors, from a lender claim perspective

Recessions usually cause property values to fall and lender claims to rise. Yet despite fallout from Brexit, COVID-19 and the now infamous mini budget of October 2022, values held firm. Should the recently announced budget changes coupled with falling interest rates, higher stock levels, a relaxation in capital requirements (through the latest Basel guidance), and softening lender lending criteria (loan-to-value ratios and affordability criteria) raise concerns that the benign claims environment enjoyed for the last decade is about to change? Pleasingly, the answer appears to be a firm 'no'. Unemployment levels remain low, first time buyers (50% of the transactional market in the last 12 months) still have the 'Bank of Mum & Dad' and upsizing home-movers are returning, but with prudent caution. Some private landlords or second home owners may be leaving the market due to impending tax changes (both national and local) and ever greater regulation, but they are doing so by choice, not compulsion, and not in sufficient numbers to impact values.

PROPERTY

42. Martyn's Law will impact underwriting and coverage

"There will be ongoing discussions on understanding the implications of Martyn's Law." So says the Impact Assessment accompanying the Terrorism (Protection of Premises) Bill which was introduced into Parliament on 12 September. This development may have caught some unawares, despite the efforts of Figen Murray, the mother of Martyn Hett (after whom the Bill is named), to keep the proposed legislation in the limelight. While the Bill's main impacts are likely to be on liability, including public liability and D&O, insurers, brokers and insureds will need to consider the detail of the Bill and its impact on coverage and exclusions in existing property and terrorism policies as well. These could be positive (for example, a reduction in premiums where it is recognised that premises represent a better rated risk as a consequence of having public protection procedures in place) or negative (for example, where there have been identified failings). Certainly, where available for enhanced duty premises and events, underwriters should be obtaining the information prepared for the Security Industry Authority as part of the presentation of the risk. Additionally, the greater awareness of the threat of terrorism could result in more property owners applying for terrorism-related insurance policies.

43. Watch out for further COVID BI activity

The forthcoming year is likely to see further satellite litigation of some importance around COVID-19 business interruption claims. The Court of Appeal is due to hear arguments as to whether the broad approach to causation adopted in the FCA test case (where a single case of disease within a set radius of a policyholder's premises is to be regarded as the effective cause of a lockdown imposed at national level) is translatable across to certain denial of access clauses. This will be a significant point in the evolving litigation surrounding the pandemic, as it should give the industry greater clarity as to whether what the Supreme Court decided in the FCA test case about causation is of broader application outside the ambit of disease clauses, with the potential to have unforeseen consequences for other parts of the policy unconnected with disease losses. Similarly, the Court of Appeal will decide in 2025 whether policyholders must give credit against their business interruption claims for furlough, an issue which could have a very significant financial impact across the industry.

44. Flood claims and recovery opportunities against government bodies

Having experienced another year of heavy rainfall and both local and regional flooding, we predict a rise in flooding claims next year. As insurers are continually facing more frequent and larger claims, they may be more likely to consider recovery opportunities against, in particular, local authorities and other relevant government agencies who either failed to implement appropriate flood defences or failed to properly manage the flood defences in place. This could include a failure to maintain overflow areas or decisions to raise/lower defences at the right time. Historically such recovery claims have been difficult to maintain, but the tide may slowly be turning after some more favourable recent decisions and we have already seen an uptick in enquiries from insurers to work with insureds and loss adjusters to ascertain the merits of potential recovery actions.



45. Protests to continue in 2025 – ensure property policies are providing the scope of cover required

As we predicted last year, geopolitical instability and large scale protests across the globe have been a common theme this year, raising several issues for underwriters writing terrorism and political violence cover. Both peaceful and more violent protests (sometimes at the same time) have been a regular theme in the UK and we expect this to continue throughout 2025. It raises a number of potential issues for insurers including in the UK property market, in particular in relation to when it can be said that a peaceful protest turns into a violent one. Insurers should give careful consideration to their use of terms such as strikes, riots and civil commotion as well as malicious damage to make sure that they are appropriate in the current climate of political instability, so that cover is being offered that is within insurers' risk appetite.

TRANSACTIONAL LIABILITY

46. ESG due diligence is increasingly important in M&A deals


Corporations recognise that tackling environmental, social and governance (ESG) issues can give them a competitive advantage and provide opportunities for growth. With greater scrutiny of ESG targets by consumers, employees, investors and regulators, ESG considerations are increasingly an important focus in M&A deals. Buyers are critically assessing sellers' commitments to sustainability and energy conservation, operational efficiencies and social responsibility as part of the acquisition process, to ensure ESG statements stack up and their merging corporate cultures will align. Significant differences in ESG ideology and performance criteria could be an obstacle to integration post-merger and may result in claims if mismanaged. ESG scoring – which uses quantitative measurements to independently verify ESG factors – is a growing market and it is expected to become more common place in the M&A due diligence process.





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