

On the face of it...



SEPTEMBER 2009 NEWSLETTER

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ANGEL TO HOST INAUGURAL BROKER FORUM IN EXETER

We are delighted to be able to announce that October will see us host our very first Broker Forum. We will be bringing together experts from the insurance and legal professions to speak in front of an audience of brokers.

The event will take place at the Exeter Chiefs Rugby Club just off the M5, between 10.30am and 1.30pm on Wednesday, October 7th. It will give brokers the opportunity to hear about the very latest developments in Directors & Officers liability insurance, employment law trends and related claims, plus details of the latest developments in Corporate Manslaughter, the consequences of falling foul of these, and the vital role that a D&O insurance policy can play.

The event will be free to attend and will include morning tea and coffee as well as a buffet lunch. Spaces at the event will be limited and will be allocated on a first come first served basis, so if you want to make sure you are part of the audience, go to www.angelunderwriting.com from where you can complete the online registration form, or email gg@angelunderwriting.com with the names and contact details of those wishing to attend. Invitations and an itinerary will be posted shortly.

We believe that this free event will be very informative and worthwhile for any broker interested in D&O insurance, and we strongly recommend attendance.

The presenters

- David Barrett David is a training professional offering directors and officers training to an advanced level. He has hosted many training days on behalf of the Chartered Insurance Institute.
- Alex Lock Alex specialises in outsourcing and employment law and has provided specialist employment advice and guidance on all aspects of employment law to public and private sector employers for more than 12 years. He has considerable experience of Employment Tribunal and Employment Appeal Tribunal work on behalf of major companies, both preparing cases and regularly appearing as an advocate.
- Andrew Stokes Andrew has been practising in the field of Health and Safety Law for 20 years, both in industry and in private practice. He specialises in the defence of safety, health and environmental prosecutions and employers' liability.

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BEST AFFIRMS CATLIN GROUP'S 'A' RATINGS

September 2, 2009

A.M. Best Co. has affirmed the financial strength rating of 'A' (Excellent) and issuer credit rating (ICR) of "a" of the Bermuda-based Catlin Insurance Company Ltd (CICL), Catlin Insurance Company (UK) Ltd., the U.S. company Catlin Insurance Company, Inc. (CICI) and Catlin Specialty Insurance Company.

Best also affirmed the ICR of "bbb" of the Bermuda Holding company, Catlin Group Limited (CGL), the ultimate parent company of the Catlin Group, and the debt rating of "bbb" on the \$600 million preferred stock issued by CICL. In addition Best affirmed the ICR of "bbb" of UK-based Catlin Underwriting and the debt ratings of "bbb-" on the \$27 million subordinated floating rate notes and €7 million [\$9.95 million] subordinated floating rate notes issued by Catlin Underwriting. The outlook for all of the ratings remains stable.

Best said it "believes that the Catlin group's consolidated risk-adjusted capitalization is likely to remain strong in 2009, supported by the \$289 million rights issue undertaken in the first quarter of 2009 and solid retained earnings. The level of consolidated risk-adjusted capitalization is expected to be sufficient to support the group's growth plans in the United States and the increase in underwriting risk, following the termination of a 12.5 percent quota share reinsurance arrangement between third party Names and the group's Lloyd's operation, Lloyd's Syndicate 2003 (managed by Catlin Underwriting Agencies Limited.)".

Best foresees the Catlin group making an "excellent consolidated pre-tax profit in 2009, underpinned by solid underwriting performance and a positive investment return." This compares to 2008, when the group reported a pre-tax loss of \$12.6 million, owing to large investment losses and the impact of hurricanes Ike and Gustav.

The combined ratio is expected to improve in 2009 (assuming normal catastrophe activity) from the 96.1 percent achieved in 2008. In Best's opinion "rate increases, predominantly for catastrophe-exposed classes of business, are likely to be offset by weak rating conditions for casualty lines, increased frequency in large single risk losses and the negative impact of the global economic environment on claims frequency."

Best also indicated that it "expects prospective underwriting performance to continue to be supported by modest reserves releases and the group's robust underwriting framework, which embeds the utilization of actuarial rating models to maintain pricing discipline."

Catlin's ratings "continue to reflect its strong profile in the Lloyd's and London markets through syndicate 2003," Best continued. "However, prospective growth is expected to emanate largely from the U.S. business, as the group focuses on improving its access to business that typically would not be underwritten in the London or Bermudian markets."

While Best noted that this trend is likely to "improve the diversification of Catlin's consolidated portfolio," the rating agency also anticipates that Catlin will face "considerable challenges in developing profitable business in this market at a time when rates (particularly for U.S. casualty classes) remain weak."

Source: A.M. Best

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HSE WORK PLACE ACCIDENT STATISTICS

Amongst all the doom and gloom of the current economic recession there is at least one bit of good news for company directors in the form of the 2007/08 Health and Safety Executive (HSE) report. The number of work place fatalities in the UK has been on the decrease for the last five years, which is encouraging given the transition into law of the Corporate Manslaughter Act in April 2008. Despite this however, workplace accidents and injuries are still costing British businesses billions of pounds every year in defence and related legal costs and the growing number of compensation awards.

Campaigns by the HSE in recent years to reduce the levels of workplace deaths are working according to the latest statistics, which show a 22% drop since 2002/2003.

This could however be short lived relief, with news that the first prosecution under the new Corporate Manslaughter Act will commence on February 23rd, 2010 at Bristol Crown Court.

Cotswold Geotechnical Holdings have been charged with offences under the Corporate Manslaughter Act and section 2 of the Health and Safety at Work Act following the death of a junior geologist, Alexander Wright, on September 5, last year. Wright was crushed to death when the sides of an excavated pit collapsed while he was collecting soil samples.

In addition to the charges levelled against the company, director Peter Eaton has also been charged with common law manslaughter and an offence under section 37 of the Health and Safety at Work Act relating to his consent and neglect.

Defence counsel indicated not guilty pleas would be entered at trial which is expected to last up to six weeks.

Whilst workplace fatalities may be dropping, the 2007/08 Health and Safety Executive Report provides some interesting and enlightening, if not slightly worrying reading and serves to highlight the risks that remain for businesses and their directors in today's ever increasing compensation culture.

According to the HSE report:

Ill Health

- 8 2.1 million people were suffering from an illness they believed was caused or made worse by their current or past work.
- 8 1.3 million of these cases were suffered by people working during the year, of which 563,000 were new cases.

Injuries

- 8 229 workers were killed at work, a rate of 0.8 per 100,000 workers.
- 8 136,771 other injuries to employees were reported under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR), a rate of 517.9 per 100,000 employees.
- 8 299,000 reportable injuries occurred, according to the Labour Force Survey, a rate of 1,000 per 100,000 workers.

- 8 There were 27,976 major injuries to employees reported in 2007/08, and the rate of injury was 105.9 per 100,000. Over one third were caused by slipping or tripping.
- 8 There were 108,795 other injuries to employees causing absence from work of over 3 days, equivalent to a rate of 411.9. Around two fifths were caused by handling, lifting or carrying, and a quarter due to slipping or tripping.

Working days lost

- 8 34 million days were lost overall (1.4 days per worker), 28 million due to work-related ill health and 6 million due to workplace injury.

Enforcement

As with the Corporate Manslaughter Act, prosecutions are pursued where it is felt a company has been negligent in its responsibility to look after the safety of its employees. In 2007/2008, there were 1,137 offences resulting in prosecutions, 1,028 of which were completed resulting in 839 convictions. The average penalty per conviction was £12,896, this figure does not include any amounts the defendants had to pay in representation or defence costs.

In 2007/08, there were 7,715 enforcement notices issued by the HSE, (compared to 8,234 in 2006/07), additionally 6,010 enforcement notices were issued by local authorities of which 354 offences resulted in prosecutions and of those 334 convictions were secured. The average penalty per conviction was £7,663, again this figure does not include any amounts the defendants had to pay in representation or defence costs.

The Labour Force Survey provides estimates of both the total number of accidents at work and the number which should have been reported under RIDDOR. In reality, it is thought that only around half of the accidents which should be reported are actually reported. In 2007/08, it is estimated that there were 817,000 accidents at work. For 299,000 of these, the injured person was absent from work for at least 4 days and hence these accidents would have been reportable under RIDDOR.

British businesses are becoming safer places to work as is demonstrated by the statistics, but the figures show that there are still hundreds of thousands of accidents that take place at work every year, with prosecutions being brought as a result.

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CLAIMS ROUND UP – IT COULD HAPPEN TO YOU

It may be something of a modern day cliché but we are living in increasingly litigious times with more and more pressure being placed on company directors. Legislation has been taking a stronger hold over the way businesses operate and there is a growing appetite for people to seek damages and compensation should something go wrong. Company directors and business owners can no longer simply say “it will never happen to me”, as these following examples prove:

Landlords reminded to check gas appliances regularly following HSE prosecution

The Health and Safety Executive (HSE) is urging landlords and property agents to ensure that their gas appliances are serviced and maintained and that landlords' gas safety checks are completed. It follows the prosecution of a Tamworth man, after four people were taken to hospital suffering suspected carbon monoxide poisoning at a rented property.

Paul Bird was fined £2,000 and ordered to pay £2,220 in costs at Burton on Trent Magistrates Court on 8 June, after pleading guilty to four charges under the Gas Safety (Installation and Use) Regulations 1998.

The incident occurred in a property on Prospect Street, Tamworth on 11 December last year. The four people who were taken to hospital with suspected carbon monoxide poisoning, were released the same day.

Mr Bird was the managing agent of the property.

Bus company and its director prosecuted after man is crushed to death at work

The Health and Safety Executive is warning bus companies to ensure that workers have clear safety instructions when working in bus depots after a man was crushed to death between two buses.

The call comes after the prosecution of Eastbourne Buses Ltd and the company's Managing Director, Stephen Barnett at Brighton Crown Court. The trial started on 8 June 2009.

Eastbourne Buses Ltd, of Eastbourne, Sussex was fined £100,000 and costs of £135,000. Managing Director, Stephen Barnett, was also found guilty and fined £5,000 and costs of £5,000 after both were found guilty of breaching the Health and Safety at Work etc Act 1974.

The prosecution followed an incident on 4 September 2006 at the Eastbourne Bus Depot. Employee Roy Trundell was returning to the depot after an early shift. Mr Trundell parked his bus behind another single decker bus number 128 that would shortly leave for its shift. In front of this was a third bus that was believed to be non operational forcing the driver of 128 to reverse the bus, at the same time as Mr Trundell walked behind the bus towards the depot office. Tragically Mr Trundell was crushed between the buses and later died. The company had failed to control the safe movement of buses in the yard, allowing drivers to ignore the systems put in place to avoid such incidents.

King's Lynn company and director prosecuted for failing to protect employee

The Health and Safety Executive (HSE) is warning employers to ensure machinery is adequately guarded following HSE's prosecution of King's Lynn based Bacocompak (Norfolk) Ltd, and Director Mr Peter Groves Bacon.

Bacocompak (Norfolk) Ltd was fined £4,000 and ordered to pay £6,666 in costs, whilst Mr Peter Bacon was fined £2,000 and ordered to pay £3,333 in costs, after pleading guilty at King's Lynn Magistrates' Court on 18th March 2009 to charges under the Health and Safety at Work Act 1974.

The court heard how on 17 April 2007, Mr Marcus Gohn, an employee of Bacocompak (Norfolk) Ltd, was working on a waste screening device when an unguarded conveyor belt became blocked. As Mr Gohn reached in to free the blockage, the belt restarted drawing his arm in to the end roller, trapping it and causing a severe fracture to his lower left arm.

Debt collector prosecuted & fined by Information Commissioner's Office

The director of a debt recovery company has been successfully prosecuted recently by the Information Commissioner's Office (ICO) for bombarding individuals and businesses with unwanted faxes.

The action follows over 500 complaints from individuals and businesses to the ICO and the Fax Preference Service (FPS).

Robert Logan, Director of Clear Debt Solutions (CDS), based in Preston, pleaded guilty to 13 offences relating to breaches of the Privacy and Electronic Communications Regulations. Mr Logan has been fined £400 per charge plus costs and must now pay a total of £6,274.53.

In September 2007 the ICO issued CDS with an Enforcement Notice ordering the company to stop sending unwanted faxes to individuals and companies who were registered with the FPS (a list of telephone numbers where the subscribers have registered an objection to receiving unsolicited faxes) or who had not given consent to receiving such faxes.

Despite the Enforcement Notice, and Mr Logan being questioned under caution, the ICO and the FPS continued to receive complaints about unsolicited faxes, receiving a further 822 since October 2007.

Geotechnical company's director faced Bristol Crown Court.

In the first case brought under the new corporate manslaughter act Peter Eaton and his company Cotswold Geotechnical Holdings is being jointly charged under the 2007 Corporate Manslaughter Act following the death of one of the firm's junior geologists.

Alexander Wright, 27, was killed while taking soil samples when the sides of the trial pit he was in collapsed. The incident took place in Stroud, Gloucestershire on 5 September 2008.

The landmark charge is the first under the new Corporate Manslaughter Act. It is brought against Eaton's company as well as Eaton himself "because of the way in which the organisation's activities were managed or organised, caused the death of a person, namely Alexander James Wright by gross negligence, which amounted to a gross breach of a relevant duty of care owed to the deceased".

Eaton could be jailed for life if convicted of gross negligence and manslaughter, while his firm could be subject to an unlimited fine.

Judge Thomas Crowther QC granted Eaton unconditional bail yesterday until the next hearing before Bristol Crown Court on 19 August, when a plea will be entered.

ANGEL FANTASY FOOTBALL LEAGUE

2008/09 SEASON REVIEW

With the new football season having just kicked off, it's time once again to review what happened in last year's competition.

The 2008/09 season saw 64 teams take part, more than double the entries for the previous season.

From the outset it looked like it was going to be a keenly fought contest. However after the initial few weeks of settling down there appeared to be only one winner.

Having taken the lead in week 7 Gary Green, Angel's business development director remained at the top of the league for a full 17 weeks only briefly being over taken in week 8 by Steve Smith Angel's new business underwriter and in week 12 by Paul Norman from Angel's accounts department.

Gary's hopes of taking the title however were dashed when he was overtaken by the eventual winner Paul Greenwood, who came from nowhere to over haul Gary in week 24 assisted by an all Manchester United defence which enjoyed a 14 match run of clean sheets in the middle of the season.

For a Manchester City fan, living on the fringes of Manchester he should be ashamed! Paul went on to finish a whole 104 points clear at the top of the Angel league and gained himself a place in the top 100 of the Daily Mail competition as well, so congratulations go out to him.



The first prize was awarded to Paul by Gary Green who, despite being well beaten into second place, still managed a smile.

There was a bit of banter from last years winner John Veal early on as he climbed to 8th position but any serious challenge that he felt he had disappeared almost as fast as the manager of his beloved Tottenham Hotspur. Only a flourish towards the end of the season managed to get him out of mid table obscurity and into the top 5 - better luck next year John.

A special mention must also go to Dan Bligh, the self confessed pre-season favourite who also had a strong following from his colleagues. As it turned out all we saw of Dan was a lot of lame excuses!!

Angel Underwriting staff again set the pace last season finishing with three teams in the top 6, although it should also be noted that our IT manager finished last (again).

The 2009/2010 Season

With the new season underway there is still time to enter a team – and here is how you can do it.

We are again using the daily mail platform which this year has a few new features to spice things up so make sure you read and understand the new rules, here are a couple of highlights of some of the changes:

- ⊗ You have £100m to spend but this year you need to pick 12 players, one of which will be a substitute that you can move in and out of your team without using up any of your transfers.
- ⊗ You can choose from five different team formations 4-4-2, 4-3-3, 4-5-1, 3-5-2 or 5-3-2.
- ⊗ You can select a captain who will score double points for you, you can change your captain 5 times during the first period and a further 5 times during the second period.
- ⊗ You can make 16 substitutions up to 28th December and then you get another 16 for the second half of the season, unused substitutions at the end of the first period can not be carried forward!
- ⊗ Points are awarded on a similar basis to last year except that goals scored by a defender get 10 points, midfielders 8 points and strikers 5 points.
- ⊗ Goalkeepers saving a penalty will be awarded 5 points provided they touch the ball with some part of their body. Missed penalties will lose 5 points for the penalty taker!

There is an instant chat facility so we are looking forward to lots of fun, banter and bravado. Also could we ask all those entering to use their real name as the team manager because despite some side splitting names last year we still have no idea who half of the teams in last years competition belonged too.

The full rules of the game are on the Daily Mail web site and as such are out of the control of Angel Underwriting Limited so any disputes with the scoring, substitutions or any of the rules should not be directed to Angel, we will all be governed by the same set of rules.

If you would like to take part please go to www.dailymail.co.uk/sport/fantasyfootball from where you can pick yourself a team. Once you have done this click the Mini Leagues link and select "Join". The Angel Underwriting League is imaginatively called "**Angel Underwriting**" and the pin number is **8002828**, you will need these to join our league.

Any questions please email gg@angelunderwriting.com or call 01206 215511 and ask for Gary Green.

Good luck!

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