Make sure it's protected

22 May 2019

Owners and managing agents of unoccupied commercial property should check they have the proper insurance cover

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Commercial property is worth ?883bn and accounts for 10% of the UK?s net wealth. Yet it is estimated that in London alone, 24,400 commercial units are currently empty, and 45% of these have been vacant for more than 2 years.

Every commercial unit will have a different risk profile requiring nuanced insurance cover. But standard insurers are not always keen on covering unoccupied properties because of the increased risks ? for example, a small water leak left unchecked for any length of time can become a major issue. There is also an increased risk of attracting vandals, arsonists and squatters, while precious materials in the building fabric can appeal to thieves. Subsequent losses, and thus claims, can be significant. In this situation, a general insurer will look at each property to determine whether it can continue to offer cover, or whether the property should be insured with a specialist provider.

There are 2 considerations in vacant property: length of time and degree of vacancy. While there is no industry standard, insurers tend to regard 30 days as the period after which a property will be deemed unoccupied. At this point, cover may be restricted, standard policy unoccupancy conditions will be applied, or excesses may increase. A situation often overlooked, however, is when a property is only partially unoccupied. People tend to think in terms of a sole tenant occupying a building, and when that tenant leaves or ceases to trade then the property is thought entirely empty. A multi-tenured building such as a shopping mall, however, may include a number of unoccupied units, and in this instance the property would be subject to the same policy conditions that apply to unoccupancy.

It?s important, therefore, that all parties know how far a property is occupied or unoccupied to ensure the required cover remains in force, and that any policy subjectivities or conditions are being met. There is an ongoing duty for policyholders to disclose any and all circumstances that may affect their cover. Maintaining a dialogue with your broker is therefore essential, especially when occupancy levels alter during the term of the policy, to make certain that insurers are kept informed of the building?s occupancy status.

Policyholders need not automatically switch insurance policies once their commercial premises have become vacant. They or their brokers must notify their insurers, though, to determine whether the latter will continue to provide cover while properties remain unoccupied.

Say a company vacates a unit in an office block; a new tenant is scheduled to sign a 5-year lease but not for another 3 months. In that event, the insurers will typically maintain the same cover for the empty 3 months, subject to policy terms and conditions, and simply note the new occupier when it arrives.

The alternative would be for the insurer to cancel the policy, force the insured party to put a new 3-month policy in place, then replace this once the building becomes occupied. This is clearly onerous, unhelpful and complicated, especially if financiers are involved, so it is likely that the existing insurer would maintain at least some level of cover, if not for all risks. However, when it?s known that a building will be wholly unoccupied for some time, it?s more likely that a specialist policy will be needed.

With unoccupied properties, general insurers do not want to be exposed to multiple attritional losses, and will instead look to cover the asset in the main. If there is then a total loss ? a warehouse is razed to the ground, for instance ? an insurer would rebuild it. For this reason, it?s quite common with a long-term unoccupied property for insurers to restrict coverage to fire, lightning, explosion and aircraft (FLEA) cover. Accordingly, insurers might wish to remove accidental damage cover, although damage from flood, riots, civil commotion, earthquake and storm could be included alongside FLEA cover as these could occur whether the property is occupied or not.

Some insurers? policies call for extra measures to be met in the case of partially unoccupied property; others have conditions that only apply when the property becomes entirely unoccupied. Insurance brokers can evaluate the likelihood of any part of the premises becoming unoccupied, and if so, for how long, and can also assess whether FLEA cover or something more comprehensive is needed. They can likewise review the precautions the property owner has put in place and what policy conditions and subjectivities are to be expected.

It may be that the insured party does not wish to pay for extra cover or adhere to further subjectivities to obtain it. Instead, it may decide it is happy to cover for FLEA risks only during the period of unoccupancy. If wider cover is required then policyholders should expect the premiums, excesses, conditions and subjectivities to increase in line with the additional cover being requested.

In terms of disclosure, the sort of additional information insurers may require in relation to unoccupied properties includes the following:

- Are the unoccupied premises being inspected? If so, how often?
- Are the central services drained and turned off?
- Is a fire or security alarm in operation, or both? If so, what type, and how is this monitored? Is there CCTV?
- Is there a security firm patrolling? Are all of the buildings secured and boarded up?

Of course, the insured party might be taking precautions beyond those in the policy?s conditions that could prove favourable to the terms being provided by the insurer. For instance, there might be a neighbourhood watch scheme in place or flood defences, or the property may be in a securely fenced and gated development that is difficult to access without permission. Apprising the broker and insurer of all such circumstances might enable better pricing or more favourable cover.

10 tips for unoccupied property

1. Check what your policy says with regard to covering wholly and partially unoccupied premises.
2. Check the policy for the definition of ?unoccupied?.
3. If your policy stipulates you must have a security firm patrolling your premises, ensure its contract runs concurrently with that policy.
4. If you change insurers from one year to the next ? or even when you renew your existing policy ? always check that no subjectivities or conditions have been added to your cover.
5. Secure the property. If it is going to be vacant for any length of time, get the windows boarded up.
6. Seal the letterbox to prevent would-be arsonists putting lit rags through it.
7. Turn off all services ? a small water leak can become a large event if unchecked.
8. Ensure anything in and around the property that can be used, taken or cause injury is cleared away.
9. Visiting the property on a regular basis is usually a policy prerequisite. If you do not have CCTV, consider taking a photograph with a date stamp on each visit. If you have a security firm or concierge, then proof of a daily visit will be even better.
10. Ensure the relevant people are kept informed of all circumstances and policy details, including managing agents, the property owner holding the insurance contract, and the broker.

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Further information

- Related competencies include: Asset management , Insurance , Property management
- This feature is taken from the RICS Property Journal (May/June 2019)
- Related categories: Commercial property insurance , Owning and managing commercial property