

20 Coronavirus crisis

Business Post
April 15, 2020

Analysis

Insurers try to have it both ways

Peter O'Dwyer

A number of the much trumpeted package of measures unveiled by insurers nine days ago to help beleaguered businesses are little more than tinkering around the edges



The insurance sector unveiled a package of measures to ease the burden of Covid-19 on business and consumers on April 15. The set of commitments has been largely ignored by the industry both because of lack of support by all the major insurers and because of a provision in the new terms and conditions that would allow insurers to refuse to pay claims for a period of 90 days after the start of the crisis.

There was one thing, however, that stood out. Most had had business interruption policies in the first half of the year, but now they are not. The industry has agreed to pay out on claims for a period of 90 days after the start of the crisis. This is a significant concession, but it is not a full one. The industry has agreed to pay out on claims for a period of 90 days after the start of the crisis. This is a significant concession, but it is not a full one.

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The Big Picture

Will his brush with mortality alter Johnson's political outlook?

Vincent Boland

The British prime minister seemed shell-shocked and even humbled after suffering Covid-19, and his experience might have far-reaching effects long after this crisis is over



I never like to predict the future, but I have to say that the British prime minister's experience of suffering Covid-19 might have far-reaching effects long after this crisis is over.

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Irish voters have moved to the left,

Aidan Regan

The data from the February general election show a clear shift to the centre-left by voters. But as Fianna Fail and Fine Gael prepare to go into coalition, it seems unlikely that they will take a similar turn leftwards



In the wake of the February general election, it is clear that Irish voters have moved to the left. This is a significant shift, and it is one that has not been seen in many years.

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Business Post



'I HAVE TO CREATE ALL THE TIME'
The 1975's Matt Healy isn't letting lockdown life slow him down
The Magazine

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Nursing homes told to withhold information on Covid-19 outbreaks

- Memo from Nursing Homes Ireland claimed instruction came from Nphet
- Consultant: affected families have a right to know the extent of any cluster

BY SUSAN MITCHELL
HEALTH EDITOR

Nursing homes were told not to tell residents and families of the extent of Covid-19 outbreaks by their representative group, the *Business Post* can reveal.

In March, Nursing Homes Ireland (NHI), which represents private and voluntary nursing homes, circulated a memo to its members. The memo, which has been seen by this newspaper, stated: "The nursing home has been instructed at this time by the [National] Public Health Emergency Team to not provide such updates relating to the total number of suspected/confirmed cases identified in the nursing home."

In a statement, the National Public Health Emergency Team (Nphet) denied it gave any such instruction, saying it had "not issued advice in relation to nursing homes communicating with families in that regard".

A failure to disclose the existence or extent of outbreaks of Covid-19 has emerged as a key issue in the US. Families

FALLING ON THE FRONTLINE

See page 13



of deceased former residents have said they would have taken their loved ones out of nursing homes if they had known there was a major outbreak that posed a significant risk to their health.

Professor Des O'Neill, a Dublin-based consultant geriatrician, said "people need to know not just that there is a problem, but the extent and

gravity of it so they can make choices".

NHI said this weekend that it had issued an updated communication to its members since March in which it said it recognised the importance of "updating all residents' representative/nominated person including those who have not been affected by Covid-19". However, that communication made no specific reference to communicating the extent or severity of outbreaks.

Hija, which is the health-care regulator, said nursing homes were encouraged to communicate "clearly and sensitively", but were not obligated to inform residents, or the families of residents who lack full decision-making capacity, about the extent or severity of outbreaks.

Michael Martin, the Fianna Fáil leader, said he was in favour of full transparency and believed the location and scale of all clusters should be disclosed. In the case of nursing homes, he said "residents and families are entitled to know" the number of confirmed cases in a home.

In April, Martin raised the case of one nursing home that was refusing to disclose information to families in the Dail. There have been reports of others cases. Martin called on Hija to issue "clear guidelines" to nursing homes that mandate full disclosure as a matter of urgency.

Tadhg Daly, chief executive of NHI, said Covid-19 had "presented a multitude of unprecedented challenges for our health services and very specifically nursing home care".

Daly said there was "no definitive advice with regard to communicating during Covid-19" and that nursing homes had to be mindful of data protection and GDPR legislation.

Mervyn Taylor, executive director of the advocacy group Sage, said people should not be hiding behind data protection in the midst of a pandemic.

"It's GDPR, not GDR," he said, referring to the term used to describe the former communist state of East Germany. "People are entitled to know. If it is a home from

home, it is reasonable to expect residents to be fully informed about an outbreak, or if a person lacks capacity, that their family is fully informed," Taylor said.

Taylor said that while some nursing homes – public and private – had done a very good job of communicating information with residents and families, others had not.

The US has introduced new regulations that require nursing homes to inform residents, families and representatives about initial coronavirus infections, any subsequent occurrences and provide cumulative updates.

A total of 575 nursing homes are registered with Hija. 455 are private facilities and 120 are public. Some 678 former nursing home residents have died of Covid-19 infections, according to figures on Friday.

LUCINDA CREIGHTON

A self-indulgent Green Party leadership battle is not what the country needs right now
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'How do you do Romeo and Juliet six feet apart?'

Can the show go on for Irish theatres after Covid-19?
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EASTERN PROMISE

How Asian countries are outperforming the West on Covid-19
Susan Mitchell, page 13



DISRUPTING THE DISRUPTORS

They revolutionised their industries, but are Airbnb and Uber doomed?
Vincent Boland, Post Plus pages 1-3



RTÉ made €12m offer for stake in Maximum

BY AARON ROGAN

RTÉ made an offer of €12 million for a stake in Maximum Media before the company's current difficulties, the *Business Post* has learned.

The national broadcaster made the indicative offer of €10 to €12 million for 49 per cent of the Irish digital publisher in 2018.

When asked about the bid, a spokesman for RTÉ said "no comment".

Niall McGarry, the Maximum Media founder, did not progress the deal and opted to secure extra funding for the company from lenders. He owns 68 per cent of the Irish and 80 per cent of the British digital media companies he founded, but has effectively lost control of them in recent weeks.

Beach Point Capital has taken examiner-ship proceedings in Ireland and sought administration in Britain in order to save the businesses.

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Insurers accepted some businesses had 'a strong case' in private meeting

BY PETER O'DWYER

Insurance Ireland accepted in a private meeting with Paschal Donohoe, Minister for Finance, that some business policyholders had a "strong case" for their claims to be paid out, the *Business Post* can reveal.

The details are contained in documents released under Freedom of Information legislation, which also show that, at an earlier meeting, Donohoe and his officials singled out FBD and described its position on business interruption claims as "very questionable".

Insurers have been embroiled in controversy for deciding not to pay out on business interruption policies following the forced closure of businesses in the wake of Covid-19.

Minutes of a meeting on April 17 show that Insurance Ireland told Donohoe that there was a need to "focus on the subsets" of customers where "there is [a] strong case for payment of claims".

The industry body said that there were about 70,000 business interruption policies in Ireland. About half of these provided no cover for infec-

tious disease, its delegation said.

According to the minutes, Insurance Ireland officials, which included Moyagh Murdoch, the new chief executive, said the other half made reference to infectious disease, but most policies did not provide cover for Covid-19. They added that there was a need therefore to focus on those who had strong claims rather than concentrating on "the overall issue".

In response, "it was pointed out" by Donohoe or his officials to Insurance Ireland that progressing the claims of those subsets would "ease the pressure" on the broader industry, minutes of the teleconference show.

The Central Bank of Ireland has previously said it "expects" that most policy wordings are clear in terms of the cover provided by a policy, but has stressed that where there is any doubt the wording must be interpreted in favour of the customer.

A number of publicans have taken legal action against FBD in recent weeks over the insurer's failure to pay out on their business interruption policies.

Noel Anderson, the

co-owner of Lemon & Duke, last week told this newspaper that he launched legal proceedings after the insurer withdrew a written commitment to cover losses arising specifically as a result of the Covid-19 outbreak and which it relied upon to sell the policy.

Minutes of a March meeting between Donohoe and his officials show that they, "in particular", highlighted "FBD's position" on business interruption.

"There was a discussion around this position and the view was that FBD's position was very questionable", they are recorded as noting.


Three days prior to the meeting, the *Business Post* reported that FBD had sold business interruption insurance on the basis that it covered Covid-19 specifically.

Following the closure of pubs on March 16, insurers, including FBD, argued that the government's advice for pubs to close on that date did not amount to an order to do so and as such closure did not act as a trigger event for cover. They subsequently accepted that the government advice amounted to a direction.

In briefing notes prepared to page 2

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AIDAN REGAN: The EU's €500 billion economic rescue plan is a step in the right direction



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May 24, 2020

In this week's paper



Glorious gardens

Get yours in bloom this summer **Property, page 1**

PROPERTY



Sunday Interview

Emmet Ryan meets sports agent and former rugby star Niall Woods **page 26**

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“It is high time that the disproportionate influence of public service unions on annual budgets ceased”

Eddie Molloy
page 29

COMMENT



Vogue supremo Anna Wintour, profiled **page 25**

A Wintour's tale

NEWS



Catherine Martin, deputy leader of the Green Party, and Eamon Ryan, leader of the Green Party. *RollingNews.ie*

Potential for wind energy exports raised in three-party coalition talks

Government negotiations explored how the EU 'Green Deal' fund can be used to invest in floating offshore wind turbines

BY AIDEN CORKERY AND MICHAEL BRENNAN

Plans for Ireland to export large amounts of offshore wind energy to Europe and Britain have been discussed during government negotiations.

All three parties are exploring the potential of how the EU 'Green Deal' fund could be used to invest in floating offshore wind turbines to allow excess energy to be exported.

The coalition talks have also looked at how excess wind energy generated during periods of low demand could be used to produce clean hydrogen fuel for use in transport and manufacturing.

Sources on all sides have said the talks are progressing positively, but acknowledged they may run into next weekend or even further due to the complexity of the discussions around climate change emissions in particular.

"We're going well and we're getting stuck into it and if it does take a little bit longer that's okay because what we're trying to achieve here is quite significant," a source said.

A Fianna Fáil source said the possibility of a challenge by Catherine Martin to Eamon Ryan's leadership of the Green Party "doesn't seem to have affected" the talks in any way.

The parties will be under further pressure to conclude the negotiations because Minister for Justice Charlie Flanagan has confirmed that key anti-terrorist legislation will lapse at the end of next month if a new government is not in place.

Sections of the Offences Against the State Act and the Criminal Justice (Amendment) Act 2009 are due to expire on June 30. They allow for the three-judge, non-jury Special Criminal Court to try cases involving those accused of terrorism or serious gangland

crime offences. Last Friday, Flanagan got approval from cabinet to lay a motion before the Dail and Seanad to renew the provisions. But although 49 new senators have been elected, the new Seanad cannot be established until there is a new taoiseach to appoint the remaining 11 members.

The cabinet is set to meet this week to discuss the extension of the Covid-19 unemployment payment of €350 per week and the wage subsidy scheme, which are due to expire on June 8.

It is expected that both payments will be extended as far as August 20, which is when all the main restrictions on activity are due to be lifted. This will allow an incoming government to decide what happens to the payments after that.

The existing Covid-19 emergency payments are due to cost €6.8 billion and the cabinet will have to approve a supplementary estimate to cover the extra costs of extending them for another two months.

A government source said that the €350 Covid-19 unemployment payment could be lowered down to the existing €203 welfare payment. He predicted that the wage subsidy scheme would be kept for longer, but possibly also tapered down or targeted "laser-like" at certain business sectors most at risk.

The government sees the Covid-19 payments as having played a key role in keeping infections down because they boosted social stability and improved the compliance with the Covid-19 restrictions. The Taoiseach confirmed yesterday that there is no change to the advice to maintain a physical distance of two metres, despite reports of disharmony at cabinet on the issue. The public health advice from Nphet stands.

Martin not behind move to replace Ryan, Greens say

The Green Party deputy leader's supporters deny any attempt to thwart coalition talks

BY AIDEN CORKERY

Calls by a number of Green Party councillors for Catherine Martin to replace Eamon Ryan as leader have not been coordinated by her, figures on both sides of the party have said.

The party was thrown into upheaval last Wednesday af-

ter it emerged that four of the party's six councillors in Cork had written to the deputy leader calling on her to challenge Ryan for the leadership of the party once nominations opened later that day.

At least five other councillors quickly backed the move and publicly stated that they would also be nominating her

for the position - prompting some to question whether it represented a coordinated effort to unseat Ryan as leader.

A number of different party figures have told the *Business Post* that Martin had no involvement in the move, she has, however, indicated she will consider allowing her name go forward.

One of the Cork councillors, Oliver Moran, said he and his colleagues hadn't contacted Martin in advance of sending the letter.

He added, however, that she would have been broadly aware that lots of party members wanted her to run.

"People had expressed their desire before in the past to her, this includes councillors, members, everyone," he said.

Martin had always remained non-committal on such occasions, he added.

A supporter of Ryan told the *Business Post* that there was an acceptance that Martin wasn't aware in advance of the move.

"This 'Catherine should run' movement is not being run by Catherine," he said.

Martin would have been eager to avoid launching a leadership bid while also leading the party's talks with Fine Gael and Fianna Fáil, he added.

Her supporters have also rejected any suggestion that the calls for her to run have been motivated by an attempt to scupper the coalition talks currently ongoing with Fine Gael and Fianna Fáil.

They have pointed to the fact that the party rules state that a leadership contest was due under party rules, which meant that a clash with the coalition talks was unavoidable.

The *Business Post* has learned, however, that the nominations opened earlier than was expected after Ryan asked for the leadership contest to be brought forward by

two weeks so that he could go on a family holiday later this summer.

Had he not done so, the nominations might not have opened until the coalition talks had ended.

So far, eight members of the parliamentary party have publicly given Ryan their backing: TDs Malcolm Noonan, Roderic O'Gorman, Brian Leddin, Steven Matthews, Marc O'Carthaigh and Ossian Smyth; and Senators Pippa Hackett and Pauline O'Reilly.

Leddin told the *Business Post* that it didn't make "any sense" to begin a leadership contest while the party was involved in government formation talks.

"The talks are going well and I want to see that through and for it to put to the members. That's where the focus should be," the Limerick city TD said.

He felt the requirement in the party's constitution to hold a leadership contest within six months of a general

election was intended for an occasion when the party had suffered a bad election result, not a good one.

"The provision might be there, but it doesn't have to be acted on and I don't think now is the time to do that," he said.

Should she decide to run, Martin could rely on the support of her husband and fellow TD Francis Noel Duffy. It has been speculated that TDs Neasa Hourigan and Patrick Costello would also support her.

Hourigan declined to comment yesterday, while Costello said he believed Martin could be a strong leader if she ran.

"I think she'd be a great leader, but let's see where things go. She quite responsibly wants to put the negotiations first," Costello said.

MEP Grace O'Sullivan declined to comment when contacted, while fellow MEP Ciarán Cuffe indicated that he was happy that party members felt they could nominate someone else to be leader.

Insurers accepted businesses had 'a strong case' in private meeting with the Minister for Finance

FROM PAGE 1

for the minister prior to the April 17 meeting with Insurance Ireland, department officials advised Donohoe that given that insurers had accepted the government's position on the issue, their position "in relation to these claims is much more questionable".

FBD was again referenced

in this context. The insurer has previously said its insurance policies do not cover pandemics, but for "expected interruptions that might impact a business in its day to day operations". It has said it is not appropriate to comment on any ongoing legal cases.

An Insurance Ireland spokeswoman said: "From our notes of the meeting,

we indicated that in relation to Business Interruption, there is a need to focus on the subsets where there is a strong case for the payment of claims rather than on the overall issue as most policies do not provide such coverage.

Insurance Ireland also stated that insurers will pay claims where the terms and conditions of policies are met and


they are committed to dealing with their customers in a fair and transparent manner."

She also highlighted that insurers had accepted that government advice to close should be treated as a direction and said the representative body had pointed out that most BI cover is not designed to provide cover for global pandemics.

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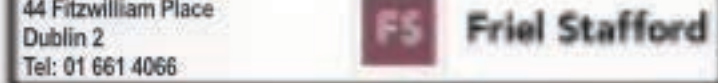
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Hospitality

Covid-19: Insurer said it would pay out if closures were ordered by state

Pubs that closed following request by Health Minister would not be eligible for FBD's business interruption cover



Peter O'Dwyer

@peterodwyer1

23rd March, 2020

in f t e





FBD recently told business customers that their insurance would cover losses associated with the Covid-19 outbreak so long as they were instructed to close their doors.

The Irish insurer said last week that its policies did not cover pandemics. The Business Post, however, has seen documents that show customers were explicitly told that their policies would cover them in the event of having to shut as a result of the coronavirus, provided they did not close of their own accord.

In correspondence with FBD, one publican was told that for the cover to be triggered the pub would have to be closed by the authorities rather than due to any decision taken by the policyholder.

Policy documents seen by this newspaper state that the business would be covered in the event of the imposed closure of its premises by the state in a number of scenarios, including "outbreaks of contagious or infectious diseases on the premises or within 25 miles of same".

When the policyholder sought reassurance that this included cover specifically for the coronavirus outbreak, he was told in writing that this was the case.

The publican was told that the Vintners' Federation of Ireland group policy his policy would be written under "is covering coronavirus". The VFI policy provides cover for about 1,300 publicans.

Simon Harris, the Health Minister, asked all publicans to close their doors on March 15, in effect leaving them with little option other than to comply.

On Friday, President Michael D Higgins signed the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act into law. Harris said he would use the emergency powers the act gave him to shut any pubs continuing to trade in defiance of the public health advice.

FBD has told brokers its policies do not cover pandemics and said it was aware many brokers had received queries from policyholders about Covid-19 in recent weeks. The Business Post is aware of a number of publicans who have queried why their policies will not pay out.



Businesses take out business interruption policies to cover losses arising from closure, typically caused by physical damage to their premises, for instance through floods or fire. Contingent business insurance is similar but also covers disruption due to damage to a supplier's facility. Business owners can also extend those policies to include infections or contagious diseases.

Even then, the cover sometimes only applies when an outbreak occurs on the policyholders' premises.

Insurance companies have come under fire from business owners and their representative groups in recent weeks as it became clear that few, if any, policyholders would receive insurance payouts over the coronavirus.

In a joint statement, the Licensed Vintners Association (LVA) and VFI last week said their members had been "spurned" in their "time of need".

FBD said its policies did not cover pandemics and told the Business Post: "FBD provides business interruption for normally expected interruptions that might impact a business in its day-to-day operations. However, FBD is a local Irish insurer and we want to support all of our customers. We will do our best to stand with local businesses in a sustainable way for all customers and our own business during this very difficult time."

Asked about the policy documents and correspondence, an FBD spokesman said the insurer had no comment to make in addition to a statement provided last week that its policies do not cover pandemics.

It is understood a number of publicans and restaurant owners are preparing to mount legal challenges against insurers refusing to pay out for disruption caused by the viral outbreak.

FBD's pre-tax profits rose from €50.1 million in 2018 to €112.5 million last year. The insurer attributed its increased profitability to its ability to release €40.1 million that it had previously set aside for expected claims costs, "exceptionally benign" weather and better-than-expected investment returns.

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Some experts have said it would be very difficult for insurance companies to pay out on policies that did not explicitly provide cover for the outbreak of Covid-19.

#HOSPITALITY, #CORONAVIRUS, #BUSINESS, #SECTORS

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