

Background

In November 2015, the UK Government clarified how anti-terrorism legislation applies to both clients and insurers affected by a kidnapping for ransom. In simple terms, any individual or company is breaking the law if they pay a ransom to a terrorist organisation. Any insurer is committing an offence if they reimburse a client for a ransom paid to a terrorist organisation.

Whilst this specific legislation applies to the UK, the UN Security Council Resolution 2133 on kidnapping for ransom was unanimously adopted in 2014, calling on all Member States to prevent terrorists from benefitting directly or indirectly from ransom payments. This means that, beyond the UK, there is an international effort to stop ransoms being paid to terrorist organisations and to implement statute making such payments illegal in many countries.

What has changed?

The increasing use of kidnapping by violent extremists has quite rightly led the UK Government to review the legalities of paying ransoms and clarify any grey areas. Hiscox welcomes this clarity.

Our policy already excludes the reimbursements of illegally paid ransom and we have not reimbursed ransoms where evidence suggests they were paid to organisations on a proscribed list issued by the UN. This list is largely focused on Al-Qaeda, ISIS and offshoots. Only an extremely small number of clients we serve have faced this situation and we will continue to provide all our clients facing an insured event with specialist security support from Control Risks, on an unlimited basis. We will also continue to pay our clients' covered expenses under the policy, including legal expenses.

Continued access to Control Risks

Such incidents are complex and difficult to manage. Without the ability to negotiate a ransom to achieve a successful conclusion, clients need the support of experienced and well-connected consultants, such as Control Risks, whose deep understanding of the diplomatic and security environment provides crucial insight. Lawyers will need to be involved at an early stage to ensure that all aspects of various legislation is adhered to, this will inevitably cross a number of jurisdictions. Access to and support from Control Risks and the reimbursement of legal fees are not compromised where an incident involves a proscribed organisation.

Operating within the law

It has been, and remains, a Hiscox policy not to reimburse the payment of ransom to proscribed organisations in any jurisdiction.

In the last five years relatively few of our claims have involved proscribed organisations, this is a situation most clients are unlikely to face. For the unlucky few, we always respond within the law.

It is not always immediately clear if you are dealing with a proscribed organisation, ultimate responsibility can sometimes be hard to unwind. The deciding criteria is 'would the reasonable person think terrorists are involved?' Where evidence suggests that a claim is one involving terrorists, we will inform our client immediately that we are unlikely to be able to reimburse any ransom payment and that they should seek specialist legal advice in relation to any contemplated ransom payment. All other aspects of the policy are still able to respond to the crisis. We will continue to pay Control Risks fees and expenses, we will also pay for the necessary legal advice. We are obliged to notify the UK Government in incidents involving proscribed organisations.

This is an area of great sensitivity and for the small number of clients affected by this type of claim, we will continue to provide support and expertise. For more information, please don't hesitate to get in touch.

Rob Davies

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