



Mactavish
Expert insurance buyers



Has the insurance hard market reached its peak?

How to handle the toughest increase in premiums and reductions in cover in 30 years.

Building corporate resilience.



In an increasingly risky world, hard market conditions are expected to continue for some time.

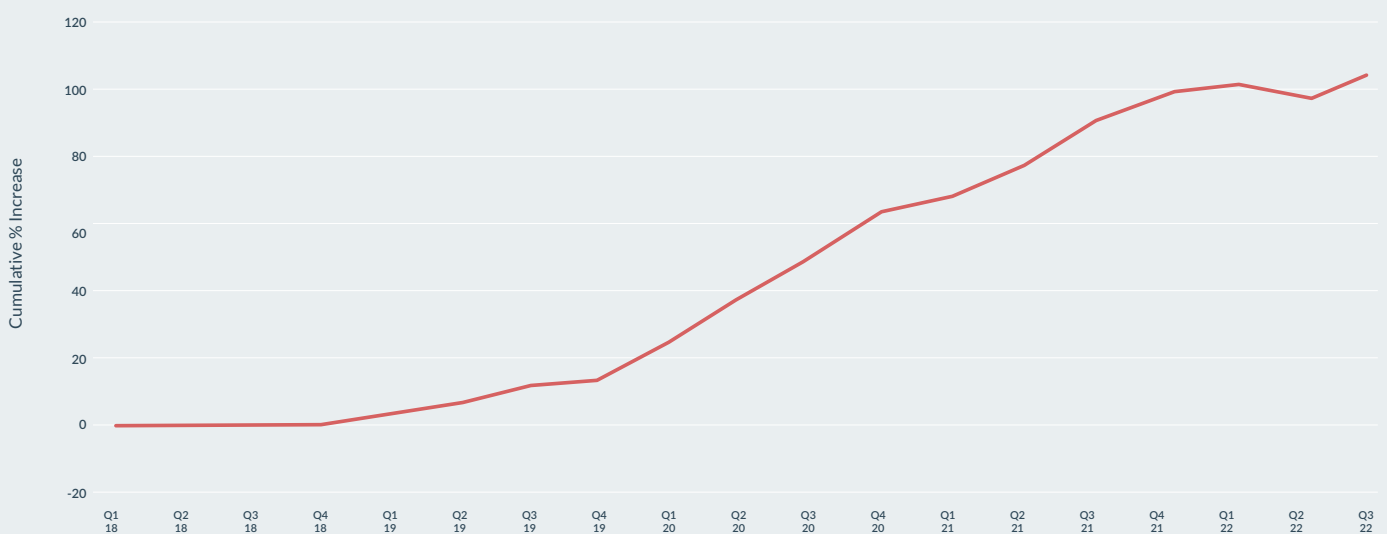
The insurance market is currently going through the longest 'hard' phase in history, with prices spiking, cover being withdrawn and dispute rates soaring. Recent press coverage has predicted softening of conditions in some areas, but in our view this underestimates the seriousness of risk and economic developments arising from current crises. It also misunderstands the data, whereby a reduced rate of increase is not the same thing as a reduction.

It is unfortunately likely that buying insurance is going to remain challenging for a good while yet.

Since 2018, premium rates for commercial insurance have risen inexorably to reach a 100% cumulative increase by Q3 2022, according to our analysis of data from the world's largest broker, Marsh. This masks a far worse picture for some classes, such as cyber insurance or financial lines overall, which have risen by more than 250% over the same period.

Evolution Of UK Commercial Insurance Pricing From Q1-2018 To Q3-2022

Source: Mactavish cumulative analysis of data from Marsh Insurance Market Index.



Reference/Index Value= 2018 pricing level by Q

For hard-pressed businesses, such wild swings in insurance pricing that don't relate to your own business can feel deeply unfair and it can be incredibly frustrating when your broker shrugs their shoulders and tells you 'there's nothing I can do, it's just the way the market works'.

"The insurance market is broken, and the old fashioned way of buying insurance won't get you the outcome you need for your business"

Preparing for challenging market conditions

The UK economic climate since the onset of the insurance hard market in 2019 has undergone a number of huge risk events in quick succession: Covid, Brexit, Ukraine, the supply chain crisis, prolonged political and financial market instability, an explosion in malicious cyber activity, energy and cost of living shocks and a looming recession.

All of these affect the level of risk in the economy, both directly and via the rate of business operational adaptation which drives risk profile across all insurance classes. Against this backdrop, in 2023 it is extremely optimistic to expect the hard insurance market to soften quickly: we expect that insurance cost will remain high, cover will continue to be narrowed and the process of both policy placement and claims negotiation will remain extremely challenging.

Here's what you should expect:



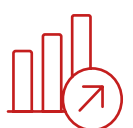
Continued, albeit slower, increases in insurance rates

Whilst serious increases have already taken place, the current trend is for a slowdown in increases in some areas (like D&O or PI which were worst hit early in the hard market), but also a worsening in the claims environment continuing through recession and preventing any serious softening. As above overall UK rates have doubled from 2018 to 2022, and financial lines increased by nearly 4 times, with this level of cost likely to remain baked in for the foreseeable future.



Erosion of policy quality

In any hard market, Insurers will look to subtly alter the policies they are prepared to write in order to withdraw swathes of cover and mitigate their exposure to an increase in claims costs. We have seen this extensively through this hard market – from the very public (but very much ongoing) spat around Covid BI to the reduction in available policy limits and sub-limits and throughout the insidious detail of policy wordings whereby definitions are narrowed and exclusions are broadened while the legal terms governing how policies operate get tighter and more difficult to negotiate.



Higher asset valuation in the wake of rising inflation

Amongst many unwelcome impacts of the huge jump in inflation is the need to revalue and properly disclose higher value assets and to review associated policy requirements closely. If you have not adequately accounted for inflation in declaring values and loss scenarios, most insurance policies will proportionally reduce the value of any claim, whether large or small.



Reduction in cover

Within policy detail, the most critical changes to identify are where cover has been removed. This may be quite visible where it relates to lower limits or higher retentions. But the devil is in the detail and policyholders need to look closely for all changes to sublimits, definitions of insured events or insured people/entities, pre-conditions of cover and how policy extensions and exclusions are framed.

Some such developments have gained a high profile in insurance circles (such as infections disease exclusions post Covid, ransomware co-insurance clauses following the cyber claim uptick, sanctions clauses post Ukraine, cladding exclusions post Grenfell, D&O insolvency exclusions driven by anticipated recession). This names a few, but there are many more such changes lurking underneath the surface of most policy renewals today, and there are often wide differences between “better” and “worse” versions of the same exclusion to pay attention to.



Higher risk of non-disclosure

Given the increased pace of risk change and multiple crisis impacts, far more companies are facing new developments changing their risk environment which form part of their duty of fair presentation and go far, far beyond traditional insurance questionnaires and proposal forms. The Insurance Act 2015 is much misunderstood by corporate policyholders and their brokers: while it helps level the playing field by ensuring underwriters must play their part to investigate risk, it still requires companies to go to great lengths to share material information. In today's higher risk environment, getting this right is more important than ever.



Increasing claims disputes

The Mactavish claim litigation index showed in 2022 a threefold increase in the rate of Court disputes where policyholders have to sue their insurers to get claims paid. This is a shocking statistic, but it is also just the tip of the overall claims iceberg. Vastly more claims than ever get near the Courtroom are being repudiated, settled unfavourably or negotiated / adjusted more aggressively in a hard market. If you suffer a major claim in this environment it is more essential than ever to tread very carefully to avoid policy breach following loss and to present and negotiate your claim optimally from day one.

It is a grim reality of the current economic crisis that companies are being asked to pay more for less when it comes to insurance; as insurers look to preserve their capital in light of a severely worsened risk outlook, they will be even more reticent to settle claims. This is not a short-term trend and will continue through 2023 and beyond.

What is the role of brokers in helping businesses navigate the hard market?

The broking sector has changed considerably over the last three decades as wave after wave of consolidation has swept through the industry. This hasn't just affected the level of competition in the market, but has also had a drastic impact on its dynamics and business model.

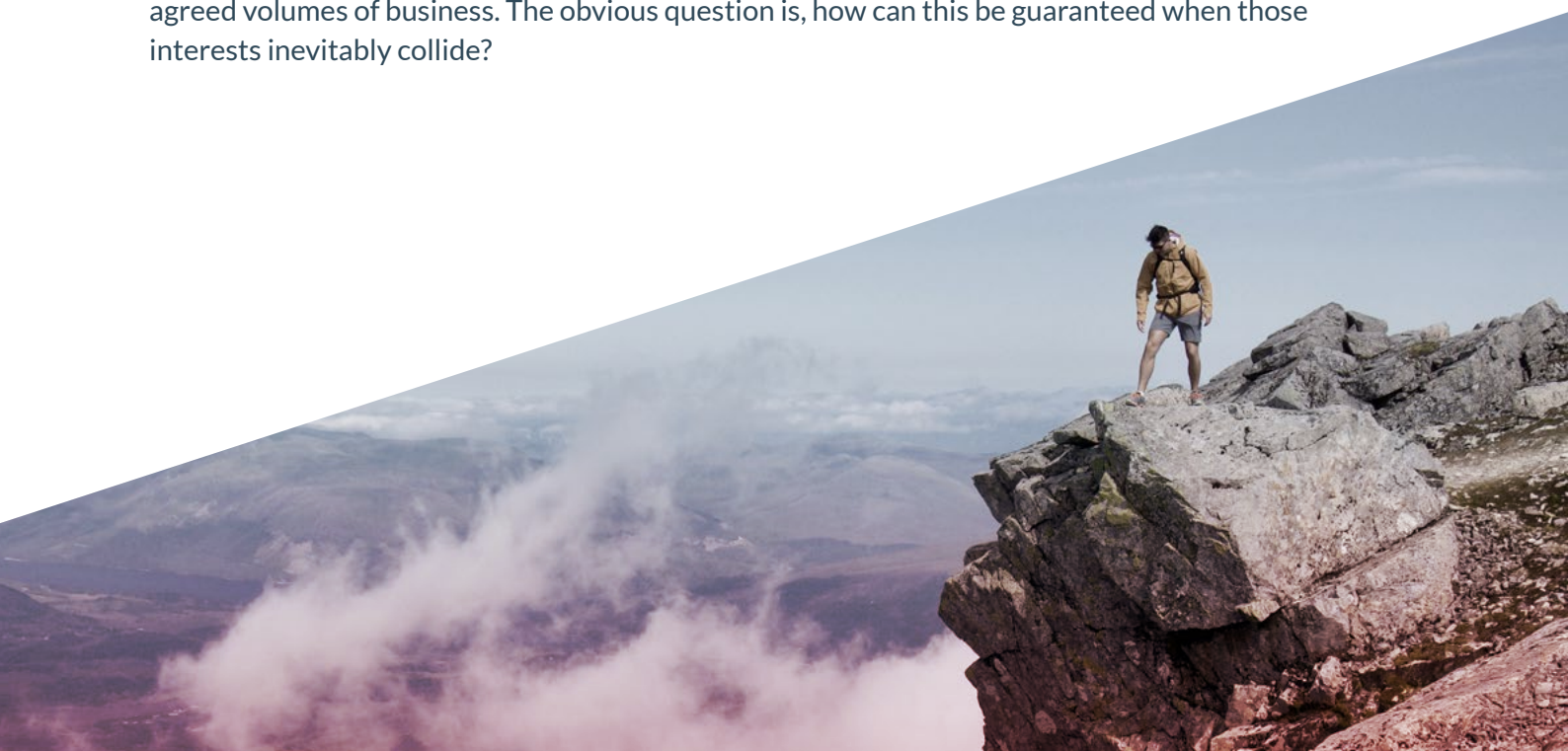
As Mactavish showed in our explosive Broker Conflicts Report, some broking houses today receive up to 78% of their income from insurers, with only 22% coming from client fees. Worse, most of this income is linked to the price of premiums, meaning that brokers stand to profit as their clients suffer massive rate increases. Put simply, the less hard they try, the more they make.

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This creates extraordinary potential for conflicts of interest that simply would not be acceptable in other sectors. It's inconceivable, for example, that the Solicitors Regulation Authority would permit a law firm to negotiate a claim on behalf of its client if it was also being paid large sums by the insurer its client was in dispute with. Yet, in the insurance industry, this scenario is commonplace.

Even those brokers who claim to disclose all insurer-derived income to their clients often only present a partial picture that ignores the many 'portfolio level arrangements' for complex and little understood services provided to those insurers.

These potential conflicts of interest are only the tip of the iceberg. Today, some brokers essentially amalgamate their 'preferred' insurers into panels or facilities to whom they deliver agreed volumes of business. The obvious question is, how can this be guaranteed when those interests inevitably collide?



How to tackle a Hard Market

The good news is that if you are experiencing the above, you are not defenceless. You can act to protect yourself:

- 1 The renewal process:** start around six months before the renewal date. Be clear on what you want to achieve, meet a wide range of insurers and explore the potential market for your risk more vigorously.
- 2 Risk marketing:** take control of how effectively you are explaining your risk to insurers. They are looking for the best risks, so try to position yourself as one. Provide more than the basic information regardless of what anyone else advises you to do. Move beyond mere compliance and “fair presentation” into creating a risk prospectus of your business to stand out. Conduct detailed analysis of your risk exposures, respond to insurer requests with as much information as possible, detailing risk management procedures and providing supporting documentation to evidence your processes.
- 3 Market management:** get the above right and you can start driving competition for your risk by building a wider and more direct insurer dialogue early. Consider engaging with more than one broker and encouraging them to provide a market-backed solution with firm wording commitments as part of their bid. This will give you a much broader and clearer view of the marketplace and the perception of your risk.
- 4 Policy reliability:** scrutinise your policy wordings to ensure they are fit for purpose for your business and get clarity on the boundaries of coverage which are deal-breakers for any insurer relationship.

In a hard market, your needs become less of a priority for insurers. By taking the above steps, you can differentiate your business risk, protect against premium increases, avoid coverage restrictions and buy more reliable cover.

Ultimately, if you take a business-as-usual approach to your renewal in the coming environment, you are likely to feel the full force of the hard market. Expect to be challenged with more exclusions, lower sub-limits and changes to the detail of terms and conditions. If you are not verifying that you have adequate protection, you could be needlessly exposing yourself.

Companies that can differentiate their risk can make themselves a ‘must have’ for the market. As market pricing increases, insurers have greater scope to offer premium reductions on individual, attractive risks because more proactive underwriters will be looking to compete on what they view as high-quality risks.

Case Study

Mactavish identifies critical gaps in coverage

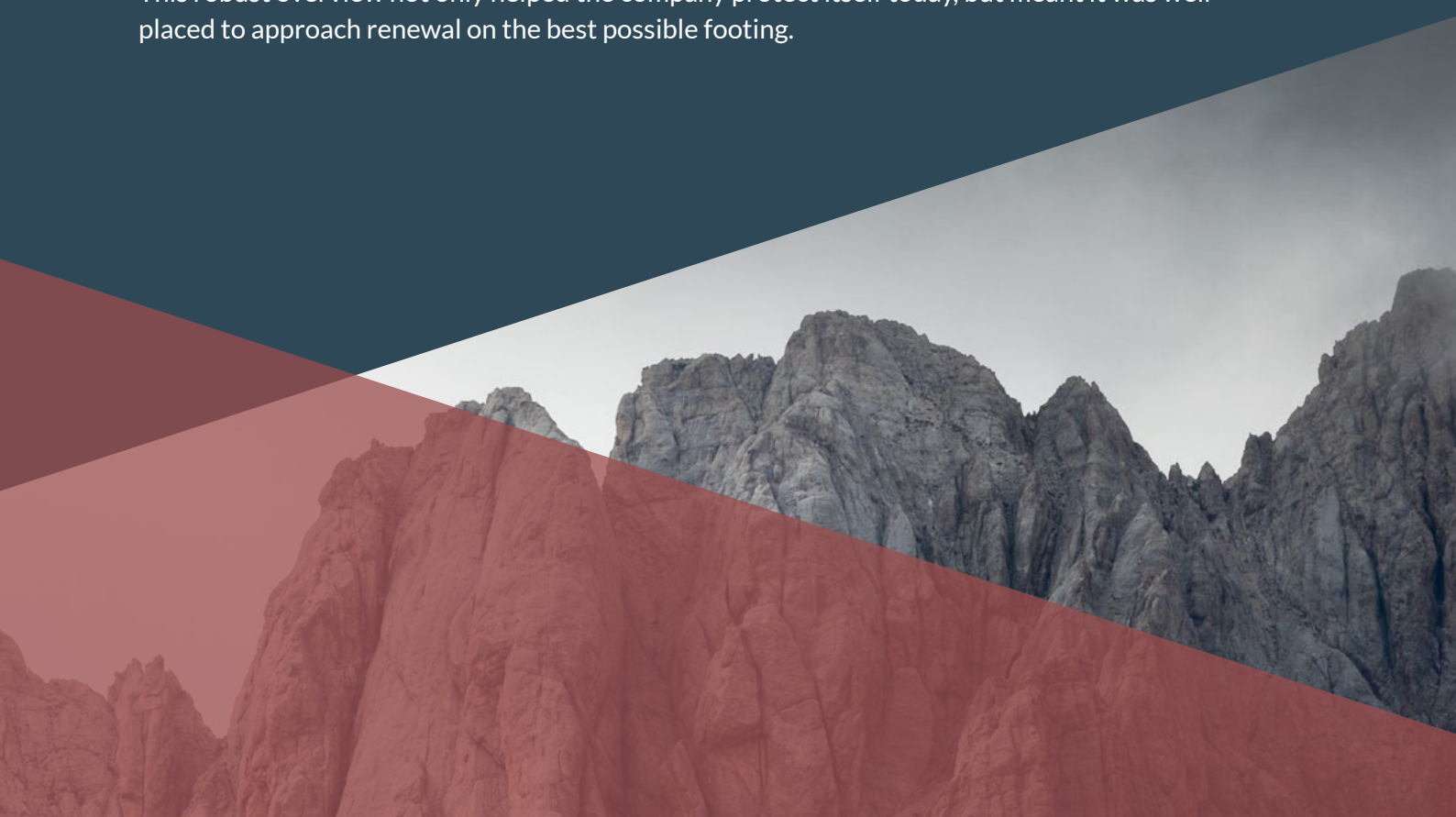
Mactavish was appointed by a mid-sized business with multinational operations in the hospitality industry. The client used the services of a well-respected broking house and thought that, on the whole, its insurance programme was probably in good shape.

Mactavish found a number of significant problems, including a major policy line which explicitly ruled out hospitality related activities and a large potential claim for Covid-19 related losses which had been wrongly advised as not covered by the client's broker.

In addition, we identified and clarified the web of operational change notification requirements and obligations across all policies that, if not adhered to, would invalidate all or much of the cover the company thought it had in place. These policy requirements and obligations are often much more onerous and punitive than policyholders assume – even in normal circumstances – and are a major source of disputed claims. As the client had adapted its business substantially over the course of 2020, many of these obligations had been breached. None of this had been mentioned by their broker.

Finally, we recommended that the client made a critical circumstance notification under its current D&O policies before renewal. Failure to make these notifications under 'claims made' policies (which apply to classes such as Directors' and Officers' insurance) mean that the policyholder is left without any coverage for evolving events once the policy has renewed if new exclusions are added, as is commonplace in this market.

This robust overview not only helped the company protect itself today, but meant it was well-placed to approach renewal on the best possible footing.



Working with Mactavish

Our clients come to us with a range of challenges, from specific one-off tasks to multi-year agreements to provide ongoing support. We are a lean and flexible organisation that can adapt to meet your needs and surpass your expectations. As a founder-led business, we take enormous care to ensure that you receive the highest standards of service.

For Mactavish, your business and your risks will never just be a number in a spreadsheet. If you have an insurance challenge you'd like to discuss, or would simply like to find out more about what we do, we would be delighted to hear from you.

Contact the Mactavish team

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