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Sedgwick is proud to provide the thirteenth issue of the ***edge***, our publication dedicated to shining a light on leading-edge topics that shape our industry's collective future.

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Crisis care

Focusing on what matters most after a catastrophe

BY **ANDREA BUHL, MSN, RN,**
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*Managing Director, Clinical
Operations, Sedgwick*

In the midst of a catastrophic event, employers aren't thinking about everything they'll need to do after the fact. They're busy thinking about the safety of their workers. About the mental well-being of their employees who have experienced a trauma. About how to care for the immediate needs of their team, while keeping their business running.

Where, then, can employers find specialized, clinical expertise in the aftermath of a workplace tragedy? A program that brings together all available services to address complex clinical needs — through a singular touchpoint — can help ensure everyone involved receives the guidance and support they need. A crisis care program, with its end-to-end solutions, provides access to specialized resources that will assist employers and claims professionals through any complex event, ensuring the best possible outcomes.

A TANGIBLE NEED

It's an unfortunate fact, but the world we live in today necessitates such a service — crisis events have become an overarching, universal issue. We're seeing more workplace violence than at any point in history. More extreme weather. More catastrophic injuries and complex clinical situations. As a result, there's a tremendous amount of information to gather and resources to coordinate. Timing is important, as is thinking about the total well-being of the individuals involved.

A crisis care program will bring in a specially trained nurse to assess the situation, including the needs of injured employees, their families, affected coworkers and the employer, and coordinate the response. They will deploy the appropriate resources, such as on-site nurse case managers, physician advisors, on-site mental health experts and specialized medical equipment experts, and will stay on until the impacted individuals — and the situation — is considered stable.

In a catastrophe that involves an amputation, for example, crisis care can offer a more specialized, proactive approach by quickly providing resources for durable medical equipment. The crisis care nurse engages specialized medical equipment experts early on to assess the injury, provide equipment recommendations and ensure delivery at the right time in the recovery process.





A crisis care program can provide end-to-end solutions, ensuring everyone involved with an incident at work gets the help they need.



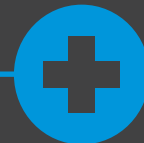
Crisis care nurses put a plan into place that:

Promptly engages a field case management nurse who will gather information regarding the injury and the status of the injured worker, provide ongoing case management and coordinate discharge from the hospital.



Provides emotional support to the employee's family, explaining the prognosis and planned treatment, and offering reassurance that their loved one is receiving the best care.

Dispatches on-site trauma counselors and consultants who will provide customized behavioral health solutions to support employers and their employees after traumatic, violent or mass casualty workplace events.



Accesses specialized medical equipment experts for trauma or complex injury cases to proactively identify needs and ensure timely delivery of necessary and cost-effective options.

Coordinates medical evacuation from remote regions.



Transfers injured workers to top-tier healthcare facilities as needed.



Engages physician advisors to consult with treating physicians, ensuring injured employees receive the best possible care for their injury.



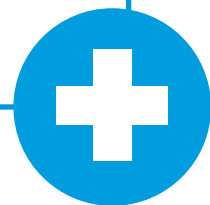
CARE WHEN IT MATTERS MOST

Through the Sedgwick crisis care program, we have helped clients during some of their most critical times. Here are just a few of our stories.

A traumatic brain injury. A client reached out to the Sedgwick crisis care team when one of its employees suffered a traumatic brain injury on the job. The injured worker was on a ventilator and would need coordination to transfer to an appropriately equipped rehabilitation facility. Our crisis care nurse provided a list of Centers of Excellence for his care and contacted the worker's family to provide an additional layer of support. He's currently continuing his rehabilitation and is on the road to recovery.

A frightening fall. An employee sustained traumatic leg injuries from a fall. After a difficult rescue, the worker's left leg up to the hip joint was amputated; there was additional trauma to the right leg which was subsequently amputated as well. The crisis care nurse dispatched a field case manager to the hospital within an hour to assess the injuries, manage the case and provide support to the family. She also engaged specialized medical equipment experts to proactively identify medical equipment needs for this type of amputation, and reached out to the injured worker's family to provide an additional layer of support. After some time with an inpatient rehabilitation unit for prosthetic training, the injured worker transitioned from hospital, to inpatient rehabilitation, to home in just three months.

Gun violence. When two employees were shot during a store robbery, a client contacted our crisis care team for evaluation and triage. After a quick investigation, the crisis care nurse was able to locate the employees under trauma aliases in the hospital and track their progression; both were admitted and had successful surgeries.



SPECIALIZED AND PROACTIVE SUPPORT

Employers who implement a crisis care program have the comfort of knowing a specially trained nurse is available to ensure their employees and other impacted individuals get the care they need, when they need it most. By aligning these resources in advance, there's a measure of reassurance that you are prepared if a catastrophic event occurs; one call prompts a coordinated crisis response and sets appropriate resources into action.

The good news is, if your organization uses Sedgwick's field case management program, you already have access to our crisis care services. To learn more about the program or to enroll, reach out to your Sedgwick client services director.



One call to Sedgwick's crisis care hotline connects employers to a crisis care nurse who can deploy the appropriate resources.



Rise of the gig economy

The employee/contractor debate builds

BY **SCOTTY BENTON**

*Vice President, Workers' Compensation
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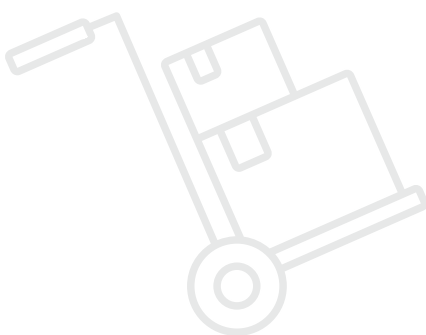
FIRST THINGS FIRST. WHAT'S A GIG ECONOMY?

Working “gigs” isn’t a new concept — people have long served as contractors, creators and craftsmen as part of a flexible workforce. The past decade, however, has seen a tremendous influx of project-specific workers; advancements with technology have opened innumerable doors to consumers who are looking for particular goods and services — and want them delivered with the touch of a button.

There are three distinct groups that make up the current gig economy:

- Workers who are paid for each task or project — each “gig”
- Consumers who need a specific service (a ride, for example)
- Companies that connect consumers to the workers who can provide the service they’re seeking

The rise of the gig economy is demanding reform on behalf of the workforce behind it. With recent cases in California, for example, the definition of what constitutes an independent contractor versus an employee is changing. To date, the most solid attempt at shaping the definition of an independent contractor is California’s Assembly Bill 5 (AB 5).



THE CURRENT STATE OF AB 5

Effective January 1, 2020 for unemployment issues and July 1, 2020 for workers' compensation issues, AB 5 codifies the decision in the 2018 case of *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* and clarifies its application. Enacting a three-part test employers must use to determine a worker's classification (learn more about the ABC test below), the bill will limit the ability of companies

to classify their workers as independent contractors rather than employees. While employees receive a set salary or hourly wage, a gig worker is paid for a specific, temporary job, even if it stretches for an indefinite amount of time. The bill was borne out of concern that companies were incorrectly deeming their workers as contractors, thereby denying them certain benefits and protections.

Proponents of the bill are looking to give workers, previously classified as independent contractors, the same benefits employees can expect: minimum wage, overtime pay, sick leave, unemployment compensation, etc. They argue it will also protect California from losing as much as \$8 billion in payroll taxes missing from an independent contractor-based structure.

THE ABC TEST, WHICH WAS ESTABLISHED BY THE CALIFORNIA SUPREME COURT, DETERMINES INDEPENDENT CONTRACTOR STATUS UNDER THESE CONDITIONS:

A

That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of such work and in fact.

B

That the worker performs work that is outside the usual course of the hiring entity's business.

C

That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the hiring entity.



OPPONENTS ESTIMATE AN INCREASE
IN LABOR COSTS OF AS MUCH AS

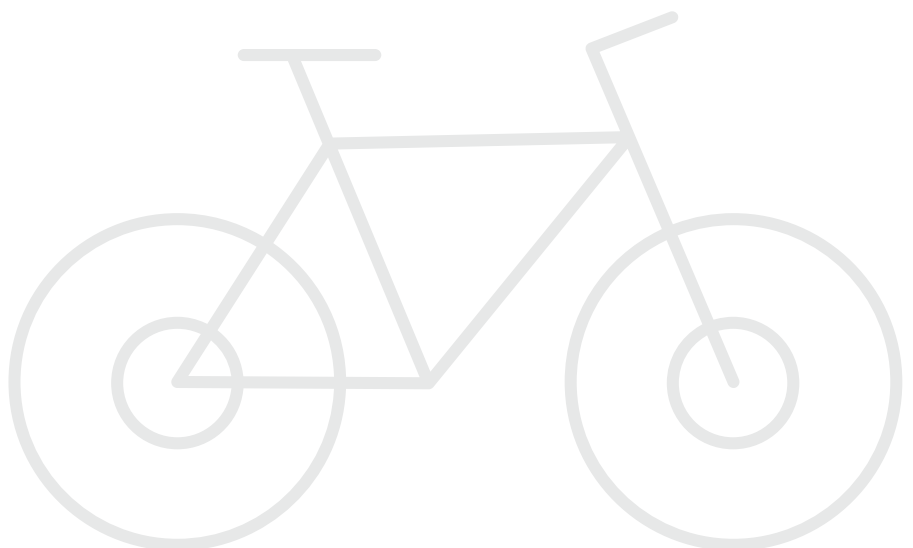
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PERCENT

Not surprisingly, though, AB 5 is hitting some resistance. Those opposed to the bill estimate an increase in labor costs of as much as 30% if companies are forced to switch their workforce from independent contractors to employees. They argue this will translate into higher costs for customers and end users, along with reduced flexibility for workers — many of whom choose to be contractors primarily for the self-governance it affords them.

In the waning months of 2019, several notable groups stepped up their fight against AB 5. These groups are actively trying to prove that their workers should fall into one of the exempt classes not affected by AB 5, and that the bill itself is in violation of the Supremacy and Commerce Clauses of the U.S. Constitution.

Rideshare leaders Lyft and Uber, along with food-delivery service DoorDash, are backing a ballot initiative to overturn the bill¹; the competitors have joined forces, launching a \$90 million campaign that purports the law does not apply to their workers and advocating instead for measures that maintain the flexibility of their work arrangements, while incorporating benefits like healthcare subsidies and insurance coverage for work-related accidents and injuries. The California Trucking Association (CTA) is capitalizing on this renewed attention to AB 5 and has refiled a previously denied legal challenge that more than 70,000 independent truckers will be unable to work under the new law².

After the bill was signed into law, the International Franchise Association (IFA) released a statement noting that the state “has upended an entire business model and thrown thousands of small business owners’ livelihoods into flux.” The IFA went on to say that they will work with similarly affected industries to “exercise all possible options, including continuing to lobby the California legislature for a common-sense exemption from this misguided policy³.”

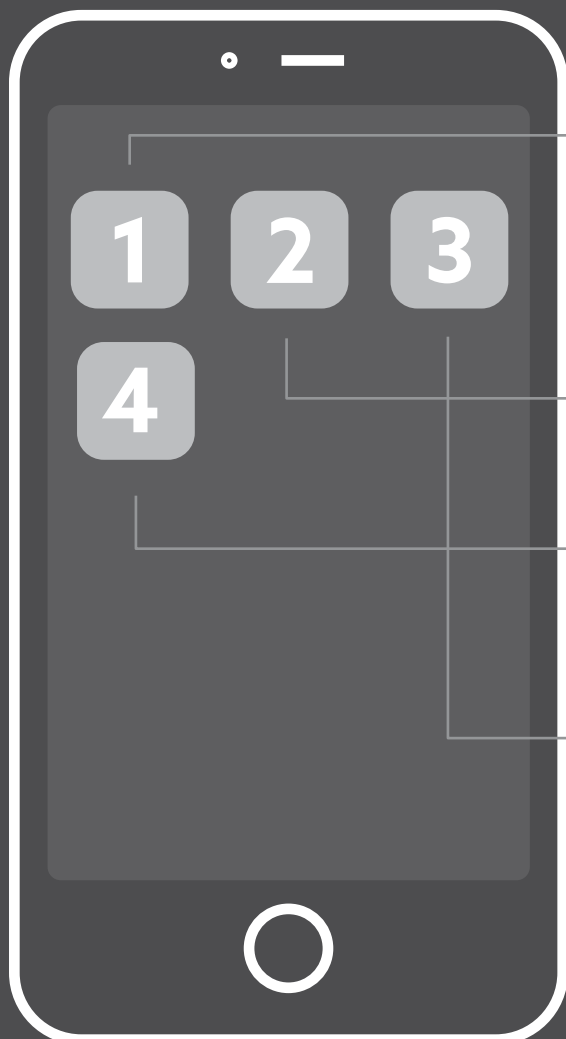


THE FUTURE OF GIG WORK — IN CALIFORNIA AND BEYOND

AB 5 and the microscope it places on gig economy companies and workers will have a huge effect on California — an estimated 1 million workers are set to be impacted by the change to their work status. There will be major implications on most business models — especially large corporations — and nearly every industry will

need time to implement the changes. To prepare, companies will need to address matters like when a gig employee is on the clock and when they're not, how they'll calculate wages and vacation time, and how they'll implement benefits like sick leave and paid family leave. Without a stay, it's expected that attorneys general and local attorneys will soon begin to sue companies found to be in violation of the new law.

Elsewhere in the U.S., the springboard bill and its ramifications are likely to have implications as well, but it'll take time; similar legislation is now being considered in New York and New Jersey. In Washington state and Oregon, similar moves have failed to advance, but advocates are feeling a renewed momentum following the success of AB 5.



How should you prepare?

Here are four key steps employers can take now to be compliant with the new and changing gig economy regulations.

- **Get the right legal counsel.** Consult an attorney who thoroughly understands and can provide guidance on labor laws and regulations.
- **Assess your risk.** With guidance from counsel, review your management of independent contractor processes, your guidelines, and contractual terms and requirements, and brush up on your rate negotiations.
- **Leverage technology.** Look at your platform to see how you can better manage your service providers.
- **Create separation.** Keep your business-to-business relations with your independent contractors formal and documented to ensure you stay compliant.



RESOURCES

1. Uber, Lyft say proposed California ballot measure is a good deal for drivers. Economists disagree

<https://www.usatoday.com/story/news/politics/2019/11/11/uber-lyft-fight-back-against-analysis-their-proposition-undepays-drivers/2532947001/>

2. AB 5 Frequently Asked Questions

<https://www.caltrux.org/ab-5-faq/>

3. California's Assembly Bill 5

<https://www.franchise.org/advocacy/californias-assembly-bill-5>

Sedgwick connection blog: "Gig economy facing a massive sea change in California"

<https://www.sedgwick.com/blog/2019/09/20/gig-economy-facing-a-massive-sea-change-in-california>

The ADA

Three decades later, questions endure

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Next summer the Americans with Disabilities Act (ADA) turns 30. So why is it still proving to be such a challenge for so many employers?

A BRIEF HISTORY OF THE ADA

Enacted in July of 1990, the ADA is a law that prohibits discrimination based on disability. It defines disability as a physical or mental impairment, a record of physical or mental impairment, or being regarded as having a physical or mental impairment, one that substantially limits one or more major life activities (e.g., caring for oneself, performing manual tasks, communicating, etc.). Under the ADA, employers are required to provide reasonable accommodations to qualified individuals with disabilities, unless doing so would pose an undue hardship on the business.

At its core, ADA prohibits discrimination, retaliation and harassment of disabled persons.

In 2008, Congress stepped in to clarify that the ADA is about accommodating what needs to be done to get an employee back to work, more so than to simply define disability. Thus, the updated ADA Amendments Act (ADAAA), and the Equal Employment Opportunity Commission (EEOC) provided additional guidance that "the determination of disability should not require extensive analysis."

This has allowed employers to spend less time trying to determine whether an employee is disabled, and more time focused on getting them back to health, work and productivity. So why, 30 years later, is the ADA still challenging for so many employers, of all sizes, in all industries? In a word: ambiguity.

TODAY'S CHALLENGES

A quick Google search of ADA will turn up a lot of words and phrases in quotation marks: "Disability." "Major life activity." "Reasonable accommodation." "Undue hardship." Imprecise language around definitions — broadened by the ADAAA to make disability a more inclusive term — can make it difficult for employers to know for certain that they're in compliance with the law. Most employers today aren't spending a lot of time on what now constitutes a disability; when there's litigation, it's more often over what constitutes a reasonable accommodation.

Reasonable accommodations, determined on a case-by-case basis, are defined by the ADA as any change in the work environment, or in the way things are customarily done, that enables an individual with a disability to enjoy equal employment opportunities. Employers are required to provide accommodations to disabled individuals, modifying or adjusting aspects of employment that would enable them to do their job, as long as doing so wouldn't result in significant difficulty or expense — in other words, undue hardship.

Unfortunately, there's no set dollar amount or leave time that's considered "undue." As with most things under the ADA, each case is evaluated individually — what may be considered reasonable for one employee may not for another. A job or function considered critical to a 25-person business will look different in an organization with 25,000 employees. Going without an employee for three weeks at a small company may be too much, where a larger one can adapt. The question, ultimately, is how cumbersome is the burden? There is no magic number of days or dollars — it's the totality of the circumstances. But "it just depends" can be a tricky way to ensure compliance.

Categories of reasonable accommodations

Leave of absence

Job reassignment

Restrictions within the position



That's where the interactive process comes in. It's an information-gathering approach an employer must use to evaluate the employee's request for accommodation. Employers are required to have this discussion, but often they don't even know when the process should start — employees rarely use magic words like "I need an accommodation" or "Let's start the interactive process." And more importantly, they don't have to; it's the employer's responsibility to know when to initiate the interactive process. According to the EEOC, that should happen whenever an employer:

- Knows an employee has a disability.
- Knows or has reason to know that an employee is experiencing workplace problems because of a disability.
- Knows or has reason to know that a disability is preventing an employee from requesting reasonable accommodation.

It's understandable that employers are sometimes uncertain about the questions they're allowed to ask. According to the EEOC, they can ask for information about an employee's requested disability accommodation, the nature of the disability underlying the employee's request and the employee's thoughts on how the disability has caused the need for an accommodation.

ADA AND THE WWW

While many of us can barely remember life before scrolling, the ADA actually predates the internet. Which means it doesn't account for websites and the predominant role they play in our work and daily lives.

Title III of the ADA prohibits discrimination on the basis of disability in "places of public accommodation," and there is an ongoing debate as to whether a website counts as such a place. Title III also provides standards for businesses' physical locations to accommodate people with disabilities, but there is no guidance for web-based or mobile applications.

Recent lawsuits claim that private company websites do qualify, and that barriers like not having compatible screen-reading software deny the right of equal access. However, the courts disagree on whether websites should be considered public accommodations: The Courts of Appeals within the First, Second and Seventh Circuits have found that a website can be a place of public accommodation, while the Third, Sixth, Ninth and Eleventh Circuits have held that it must be a physical space. Uncertainty remains.

LEAVE AS AN ACCOMMODATION

Another challenge is leave as an accommodation. Title I of the ADA doesn't mention leave specifically as an accommodation, but it does require reasonable accommodations; courts have unanimously recognized that some amount of leave may be a reasonable accommodation. This is the case even when the employer does not offer leave as a benefit, the employee isn't eligible for leave under the employer's policy, or the employee has exhausted the leave provided under other employer programs such as Family and Medical Leave Act (FMLA) benefits.

In *Severson v. Heartland Woodcraft*, the court ruled on the topic of leave as an accommodation. Raymond Severson, a seven-year employee at Heartland Woodcraft, hurt his back before work in 2013. He subsequently took medical leave; on his final day of FMLA, Severson had surgery and requested an additional two months of continued medical leave to recover. Heartland denied his request and terminated his employment, inviting him to reapply for his position when he was medically cleared to return to work. Severson sued, alleging his employer should have accommodated him with the additional leave.

The interactive process should begin whenever an employer:

Knows an employee has a disability.

Knows or has reason to know that a disability is preventing an employee from requesting reasonable accommodation.

Knows or has reason to know that an employee is experiencing workplace problems because of a disability.

The Seventh Circuit held that a leave of absence spanning multiple months under the ADA is unreasonable. The whole idea behind giving an accommodation is to allow an employee to be able to perform the essential functions of employment, and a multi-month leave of absence doesn't do that.

Severson was a particularly important case because it ruled that, under ADA, an employer is not required to create new position or transfer the employee to light duty when he would have been unable to perform the essential functions of that job.

WHAT'S NEXT?

Employers are becoming more cognizant that they have to be versed on ADA rules and prepared for the interactive process. Some have turned it over to outside partners. Often, though, that conversation falls to a human resources department, a front-line manager or to someone untrained or uneducated in the complexity of employment law. For many organizations, particularly those with 500 or fewer employees, ADA is not top of mind. They may not even realize the impact it can have on their business. So what do organizations who meet the threshold for ADA requirements need to know and remember going forward?

KEY TAKEAWAYS FOR EMPLOYERS

Understanding how the ADA applies to your organization and seeking guidance from outside counsel or qualified administrators can provide valuable insight. Below are some important helpful tips for employers to remember as they strive to remain compliant.

- ADA is an anti-discrimination statute, not a leave-entitlement statute.
 - Just because you grant intermittent leave doesn't mean employees can come and go as they please — make sure your policy is clear and well communicated.
- Create clarity wherever you can.
 - Include language in your policies that employees may be eligible for additional leave as an accommodation under the ADA, if reasonable. Ensure your accommodation review programs consider each request for a leave of absence, along with any other requested accommodations, on a case-by-case basis.
- Maintain a consistent standard.
 - Despite accommodations being evaluated on a case-by-case basis, consistency is still an important thing to remember from a compliance standpoint. If an accommodation can be applied in one instance, it should not be denied in another, similar instance.
- Arm your front line.
 - Do they understand they can't just cut the cord at 12 weeks plus a day? Training is essential. Managers and human resources teams need to understand the ADA process, which should begin at any point during leave when it becomes evident the employee won't be able to return at the end of FMLA.
- Have the discussion — and document it.
 - The number one mistake employers make is not following the interactive process. The second? Not countering with an offer of what can be accommodated. Employers that work in good faith to accommodate employees — and document the process, keeping track of their efforts to support employees' needs — are less likely to run the risk of legal exposure.

RESOURCES

DMEC Tools & Tactics Webinar: "Intermittent Leave and the ADA: What's Reasonable?"

<https://event.on24.com/wcc/r/2122032/D3DAB22332FDD864FCDD8646A4825225>

Sedgwick connection blog: "Bazinga! Theoretical Big Bang scenarios put the spotlight on intermittent ADA"

<https://www.sedgwick.com/blog/2019/05/16/bazinga-theoretical-big-bang-scenarios-put-the-spotlight-on-intermittent-ada>

Common misconceptions in integrated disability and absence management. Bryon Bass, SVP, Workforce Absence. Edge 10.

https://edge.sedgwick.com/issue_010/common-misconceptions-in-integrated-disability-and-absence-management/

ADA vs FMLA: back to basics

Many organizations don't understand the differences in disability and family medical leave. They are not the same; rather, they go hand-in-hand.

Let's consider the following scenario. Following an injury, I've taken my 12 allotted weeks of FMLA. I am not yet medically cleared to return to work full-time; I'm requesting to return to my position, but with reduced hours. My employer must now engage in an ADA analysis to determine whether granting my accommodation will result in an undue hardship to the business.

Here's where the ADA is gray: that accommodation may be easy to grant for a couple of weeks, but what if it's for multiple months or longer? What if the request is for intermittent leave, not specifically discussed in the ADA? Employers end up doing the same analysis: can we allow an employee to take off two days a month to seek treatment for anxiety? Or two days a week to receive chemotherapy? It needs to become an interactive discussion. The employer must look at what the doctor is prescribing and work together with the provider and their employee to find the most appropriate solution to meet their needs, as well as the requirements of their position. A conversation should take place: "We can't do that, but we can do this..." A third-party administrator may come in to gather all the related and required information and medical documentation, but ultimately it's on the employer to decide if they can grant the accommodation.

FMLA ELIGIBILITY REQUIREMENTS ARE CLEARLY DEFINED:

- Employees must have been employed with the company for 12 months.
- Employees must have worked at least 1,250 hours during the 12 months prior to the start of FMLA leave.
- Employees may take FMLA leave for themselves or a family member.
- Employees may take up to 12 weeks of leave (and up to 26 weeks for relatives who are service members and require care).
- FMLA allows for intermittent time off, if a doctor determines it's necessary (e.g., for chronic illness like migraines or asthma).
- The employer must employ 50 or more employees within a 75-mile radius of the worksite.

ADA ELIGIBILITY REQUIREMENTS ARE LESS CLEAR:

- Employees are eligible for ADA on their first day of employment.
- Employees may only use ADA leave for themselves, not for relatives.
- The employer must only employ 15 employees for the ADA to apply.
- ADA leave does not have a predetermined timeline. Instead, an employer must do a hardship analysis: Can we reasonably accommodate the request? What's the totality of circumstances?



Caring continues in the Bahamas

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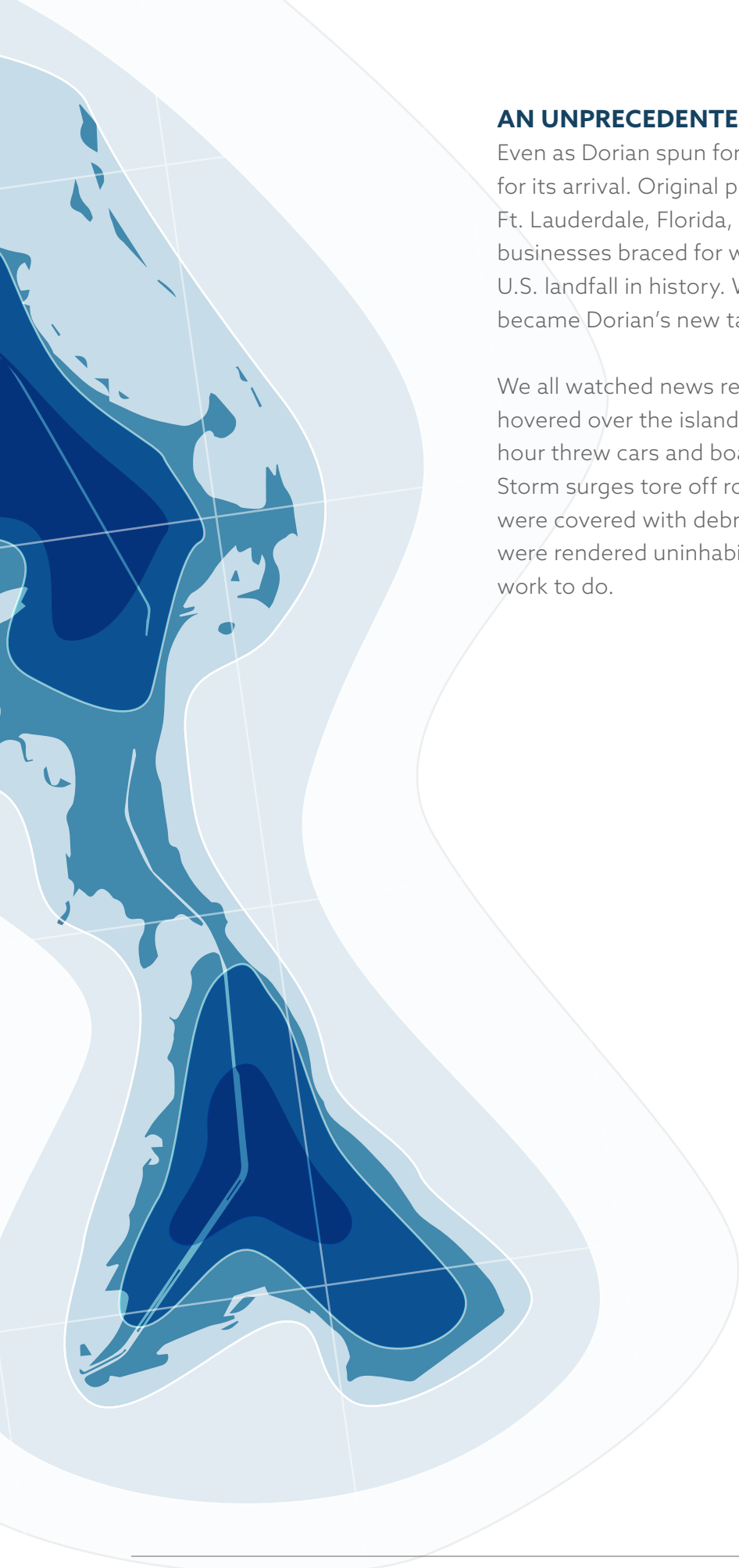
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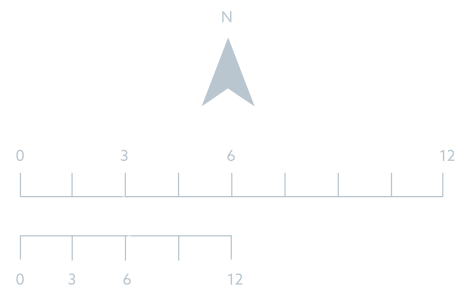
In the days leading up to Hurricane Dorian's landfall, it felt like the entire world was holding its breath. Now, months after the storm slammed into the Bahamas, residents on the hard-hit islands of Great Abaco and Grand Bahama are still coping with the devastation. Thousands of people were left without a place to call home. Businesses that took years to build were destroyed in a matter of minutes. And we've all learned that the physical damage was only the beginning.



AN UNPRECEDENTED STORM

Even as Dorian spun for weeks at sea, people were preparing for its arrival. Original projections had the storm directly hitting Ft. Lauderdale, Florida, where residents, property owners and businesses braced for what was expected to be as bad as any U.S. landfall in history. When the storm turned north, the Bahamas became Dorian's new target.

We all watched news reports as, for more than two days, Dorian hovered over the islands. Powerful winds reaching 185 miles per hour threw cars and boats across the islands like children's toys. Storm surges tore off roofs and flooded buildings. Neighborhoods were covered with debris. Many island homes and properties were rendered uninhabitable. There was a daunting amount of work to do.



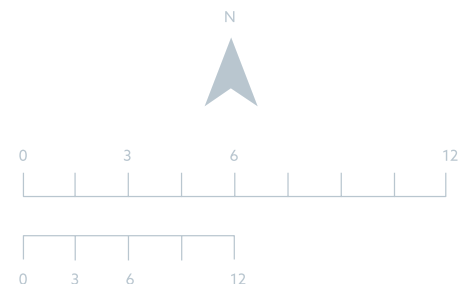


AFTERMATH

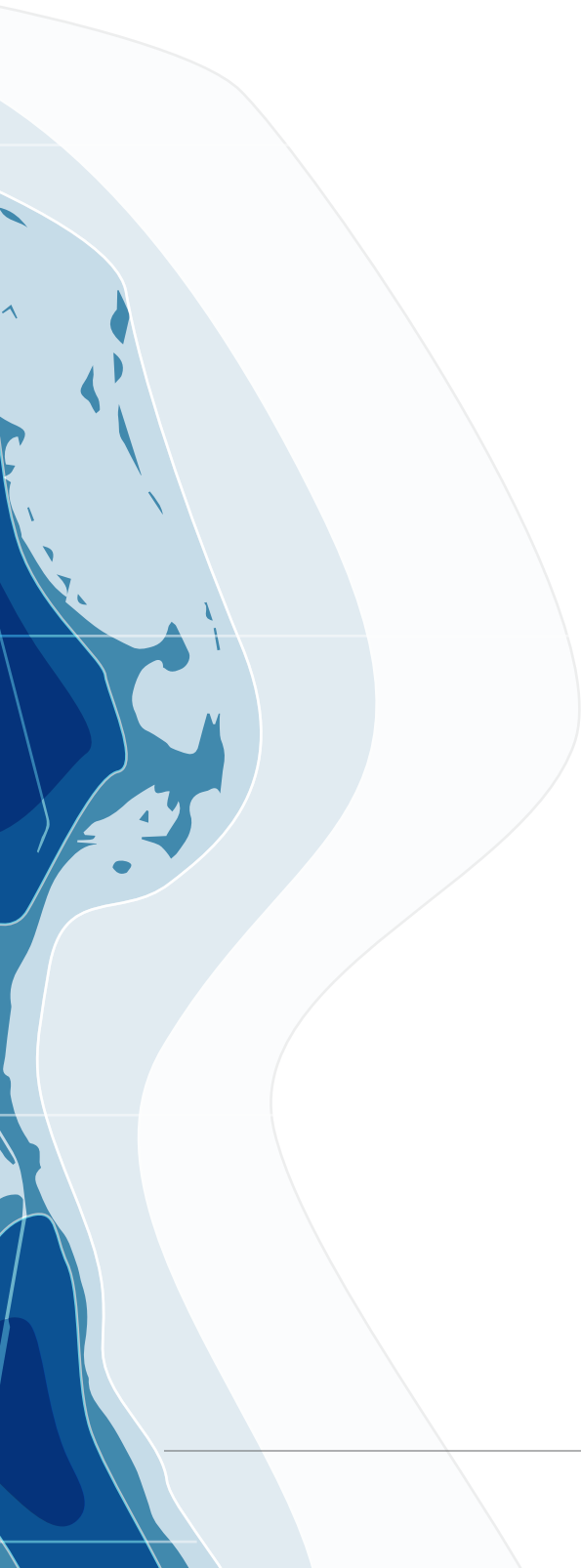
Within 48 hours after Dorian wreaked havoc across the Bahamas, a seven-member Sedgwick catastrophe response team arrived via helicopter on Great Abaco Island. As the team stepped out onto what was left of the tarmac and got a closer look at the damage, they felt their hearts grow heavy — there was no electric, no running water, no food resources. Rob Fox, managing director, forensic advisory services, explains, “Working in this field, you have to be prepared for plenty of unknowns. But it never gets easier to witness the devastation that follows a natural disaster.” He would spend 26 of the next 31 days traveling between the islands with the team.

Over the next month, Rob and the response team served as boots on the ground. They facilitated communications with the outside world, handled claims and, most importantly, lent an ear and gave a voice to the people of the Bahamas. Many were still searching for their loved ones, while others mourned the loss of family members. The health, safety and well-being of those impacted became a critical part of the team’s involvement after Dorian — the mission was to offer support far beyond the normal claims-handling expectations.

Laura De Sordi, managing director, Latin America and Caribbean, recalled her team meeting just one of the many Bahamians who had experienced unimaginable heartbreak. In an effort to keep their children safe, he and his wife felt they had no choice but to split up and wait out the storm in their cars. Overcome with emotion, the man described watching, helplessly, as the forceful tides took his wife and son. His entire life, swept away. Beyond the property damage and loss, it’s important to remember and address the mental, emotional and physical toll this type of exposure to a catastrophe can take on witnesses to and survivors of such trauma. While the physical damage can often be repaired, the emotional damage lasts long after the flood waters have receded.





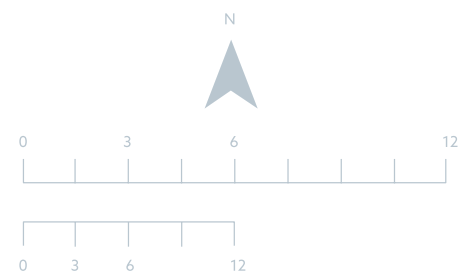


Laura also spoke about the spirit of community between the residents of the Bahamas and those who had come to provide medical care and begin the laborious process of rebuilding. When a major hospital that had set up a clinic in Abaco was short a necessary generator, her team was happy to lend one of Sedgwick's so they could continue providing lifesaving support. Explaining how they'd brought sandwiches for refugees, she explained, "It might not sound like much, but it felt like the least we could do. It felt good to help."

The community had just experienced one of the worst hurricanes in documented history. While on the ground, the catastrophe response team worked to identify, deploy and manage repair services, partnering closely with insurance companies and property owners throughout the process. Using portable Wi-Fi devices, drones and help from a local resident with a boat who could transport them between the islands, the team was able to maintain clear and constant communication with key stakeholders and customize reports for clients. Bringing together multiple departments helped drive efficiency and improve operations.

THE WORK CONTINUES

Dorian may be out of the regular news cycle, but work to rebuild the Bahamas will continue. Sedgwick's catastrophe team reminds us all of the people who were impacted and the stories they shared — taking care of people, after all, is at the heart of everything we do. Their stories are what keep us going — and why each of Sedgwick's 27,000 colleagues around the world stand behind our belief that **caring counts®**.





Expert view

*Q&A with Jody Moses, Managing Director,
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The “Expert view” column presents a wide range of topics offering valuable insights and information for customers.

edge:

You joined the Sedgwick team as part of the recent York Risk Services acquisition. So first, welcome! We’re thrilled to have your experience and expertise to draw on. You’ve built much of your career — more than 20 years in the industry — in support of public entities. What inspires you most about this line of work?

Jody:

I think it’s important to understand that public entities affect and influence us all. When we help a public entity save a dollar, get their employees back to work, help replace a damaged piece of property or manage a third-party loss, it’s to the benefit of all of us. We all pay taxes and reap the benefits and services that our public entities provide. I love the uniqueness of this industry. Where else would you see “sheep wrangler” as an occupation on a loss run? Or address the risk management

challenge of how to land a hot air balloon in a high school stadium? There’s so much to the servicing of public entities that most people would never consider — many don’t realize that public entities include almost every occupation and are exposed to almost every associated risk, from food preparers to retail-type operations, that a private sector would. And then there are the occupations that are unique to the public sector, like firefighters and safety officers, that create risk exposures unique to the public sector.

edge:

What can you tell us about pooling and the benefits it provides for employers?

Jody:

Most public entities are small — school districts, cities — which means they often don't have the breadth of resources needed to fully manage risk. By pooling, public entities can aggregate specialized expertise, creating an incredible network that provides full risk management. In addition to providing the coverage to cover the risks, pooling offers public entities an array of services they likely could not do on their own, such as risk control resources, risk control expertise, claims administration, contract evaluation for indemnification, and so on. It's really like a customized "back office," surrounding them with what they need to cover risk, prevent risk, and manage and mitigate exposures when they happen.

For Sedgwick, it's imperative that we do more than provide quality, customized coverage for our pools' members — we must also provide the expertise and resources similar to what a full-service risk management department would provide in a larger corporation. It's so much more than just being there for the client during stressful times to walk them through the steps to handle their claims or accident; those are important, but we have to be able to identify emerging risks, provide specialized and tailored coverage, and make sure we can incorporate services like risk control. Our team also takes responsibility for the financial functions of pools, including accounting, investments, audits, and working with actuaries to ensure the pool is on target to meet their financial goals. We become a mini insurance company. We're right there in it with our clients, from before a loss occurs through its successful resolution.

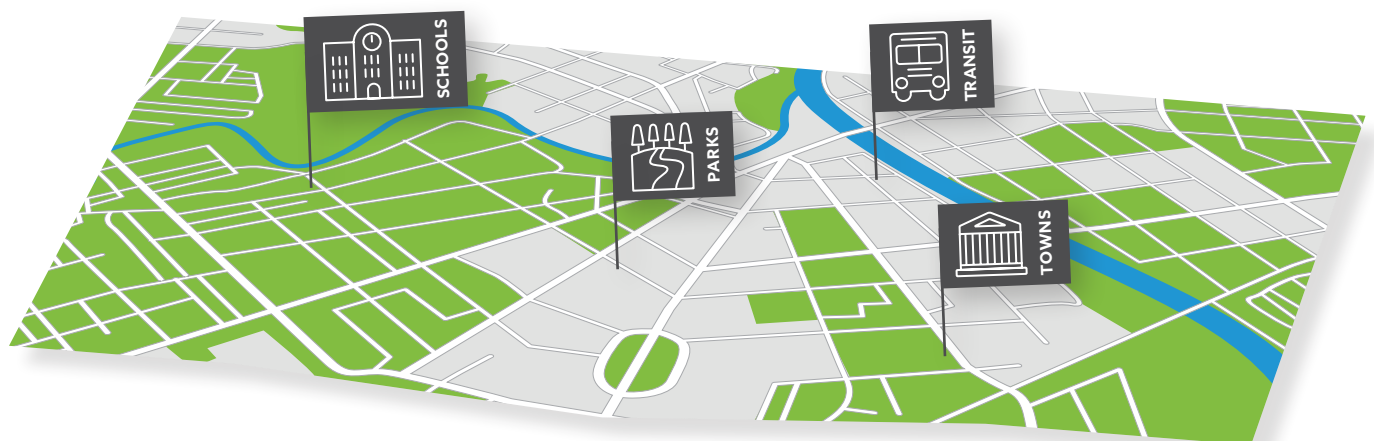
Of the 6,784 public entities Sedgwick now serves, more than 6,000 participate in a pool and Sedgwick serves as the pool administrator for 24 pools across the country.

edge:

What's top of mind for public entities right now?

Jody:

While the top priority of our public entities' risk management programs is ensuring the safety of their citizens and employees, the security of the data that citizens entrust to public entities is top of mind. Public entities maintain so much personal data, but many struggle with weak infrastructures. As a result, this makes them vulnerable, and they need to ensure they're taking the proper measures to mitigate the risk, protecting their citizens' identities.



Another major issue public entities are facing now is the expansion of the statute of limitations for sexual abuse and molestation claims. As the statute of limitations expands to as much as 50 years in some instances — and goes retroactive in several states — public entities are working hard to mitigate these risks.

Public entities are also being challenged with how to underwrite and cover risks with longer tails. Since state immunity protections are not applicable for federal civil rights cases, public entities are faced with more expensive judgments and rising litigation expenses. Public entities are beginning to wonder if the insurance market will be able to extend coverage. This is another great case for pooling. Pools emerged when public entities were forced to self-insure because the insurance market couldn't cover them; pooling was the best solution for budget certainty. Risks were so different 30 years ago when pools first came to be, but the scenario is still much the same today.

edge:

What are some of the risks public entities are dealing with today that we could not have predicted 30 years ago?

Jody:

There are risks we're helping our clients prepare for today we couldn't have envisioned 30 years ago — or even a decade ago. Active shooters, terrorism incidents, and sexual misconduct cases — these weren't the norm 30 years ago.

Other examples we couldn't have seen coming 30 years ago include the threat of cyber risk and the effects of technology — many front-line adjusters and risk managers didn't even have computers back then! I'm sure we never saw "distracted walking" coming, but today you've have walkers looking at their phones instead of the street, drivers with earbuds in who can't hear sirens. It's liability exposure for the 21st century, to be sure. In another 30 years, the risks will be different — we can't even imagine. We didn't know we'd have to worry about drones. So who knows what's next.

edge:

What does the future look like for public entities and their risk management decisions?

Jody:

Risks will change. What's emerging now will be solved, and something new will develop. We must continue to evolve in order to meet the public sector's needs and next-generation expectations. Good partnerships will mean we can face whatever may arise. Sedgwick is privileged to work with some of the brightest and most forward-thinking experts from the Insurance Marketplace, including carriers, reinsurers, public entities and corporations — and that collective experience and knowledge ensures we are well-equipped to assist public entities with a wide range of risks. We'll continue to anticipate risk for our public entity clients; when it comes, we want them to be confident that we're already busy developing solutions to help them transfer, manage and mitigate those risks.

With Sedgwick's recent acquisition of York, we have a truly unmatched depth of combined capability and experience, and a presence in virtually every jurisdiction. I'm excited about the investments we're making to develop the next generation of talent, and to support and sustain our communities — that investment brings our **caring counts®** philosophy to life for me.


Our people know your business inside and out; we are now able to be even more responsive to future needs, and to leverage and harness data public entities will need in order to make the best decisions. The collective aggregation of mindshare, of influence, of knowledge flooding in from not just Sedgwick, but from our extended network of clients and partners, is a huge responsibility. However, what an opportunity — to scale that and make it meaningful for all public entities, from states to small local agencies like a school district, a parish, a village, or a park district.

edge:

What are some other areas of opportunity you see for public entities in the future?

Jody:

Public entities, for the most part, don't outsource disability like the private sector does. The line between occupational and non-occupational leave is blurring, and employers are looking more holistically at their employees. This is something for us to explore and determine whether the services that the private sector outsource could drive the same results enjoyed by the private sector.



"I'm excited about the investments we're making to develop the next generation of talent, and to support and sustain our communities."

- JODY MOSES

First-responder legislation around PTSD and the expansion of presumptions was a big topic in 2019, and it will only continue to be an issue that our public entities, particularly our county, state and municipal governments, grapple with over the coming year.

edge:

What does the public sector need most in their risk management programs?

Jody:

The public sector relies on the insurance industry to anticipate what risks the public sector will be facing, to develop the programs and services that will enable them to mitigate their exposure and to manage the loss when it occurs.

For Sedgwick, which has the privilege and awesome responsibility to serve more than 6,000 public entities, it means we help them identify the risks, find the coverage they need, develop and train their staff, implement risk

management strategies, manage their claims and support them through legislative advocacy. It means getting involved, whether they're part of a pool or a stand-alone self-insurer. We're one of the largest aggregators of public entity data, which allows our clients to be sure they're making good decisions about where to invest and how to manage exposure.

As emerging risks go beyond state lines, we have the ability to learn from what's happening elsewhere and we can bring a national perspective to a local public entity.

JODY MOSES

Jody Moses serves as managing director, public entities for Sedgwick, overseeing the design, implementation and management of customized claims management solutions for our public employer clients, including alternative risk programs, pool administration and other insurance services.

Jody is a licensed general adjuster and a certified workers' compensation claims adjuster, holding expertise in the complex California workers' comp system and nationwide. She actively works with public entities to analyze and influence legislative and regulatory changes that affect their market and risk programs, and frequents various regional and national risk management conferences as speaker and workshop leader.



Community spotlight

Steps to sustainability

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When you hear the term “sustainability,” what comes to mind? At Sedgwick, we hear “opportunity.” To grow as an organization. To advocate for the planet. And to empower future generations. But in a world where overconsumption of energy resources, single-use consumer products and long commutes to work are the norm, how can we, an organization with nearly 27,000 colleagues across the globe, do our part to improve the outcome? We recognize that while introducing green initiatives has the potential to raise costs initially, these practices should be a long-term and global priority.

SEDGWICK'S ELECTRICITY
USAGE PER U.K. COLLEAGUE
HAS DECREASED BY

20%


IN THE LAST YEAR



**THE SEDGWICK
HEADQUARTERS IN
MEMPHIS, TN INSTALLED
LED LIGHT FIXTURES TO
CUT DOWN ON ITS
CARBON FOOTPRINT**

SEDGWICK U.K. LEADING THE WAY

As environmental and climate emergency measures move to the forefront, our U.K. leadership team has grown more ambitious in its sustainability efforts, both inside and outside of the office. Step one began in newer offices with the installation of motion-activated lighting sensors to reduce energy use. An awareness campaign helped colleagues become more aware of how often their computers were left on standby and encouraged turning off unused equipment whenever possible. As a result, Sedgwick's electricity usage per U.K. colleague decreased by 20% in the last year. But reducing our carbon footprint goes beyond changes to the office environment. As an extension of our in-office efforts, teams in the field are also evolving their practices with sustainability in mind. Our repair and restoration team was able to complete 1,857 restoration jobs on damaged contents, well above the 2018 target; compared to using all-new materials, this practice has made a measurable impact on our carbon footprint.

STEP BY STEP

Many of our offices around the world are taking small steps to make a bigger overall impact, with broad initiatives to incorporate more efficient work practices, such as virtual meeting technology, and reducing printing and paper use. In new and remodeled offices, such as our headquarters in Memphis, TN, we have installed LED light fixtures, low-flow plumbing fixtures and carpet with post-industrial recycled content. Many of our offices recycle throughout the year. And by allowing many colleagues to work from home, we're able to cut costs and fuel emissions as well. As our organization continues to grow and as new offices are built, we've had the opportunity to expand on these initiatives.

Sedgwick's sustainability efforts — like a recent campaign dedicated to WaterAid, supporting the organization's mission of bringing clean water to those in need — have inspired colleagues like Christopher Perez to make their own changes. Disappointed by the amount of polystyrene foam cups (commonly referred to as Styrofoam) being thrown away in Sedgwick's two Rancho Cordova, CA offices, Christopher stepped into action. An estimated 1,400 tons of Styrofoam is buried in U.S. landfills every day, and Christopher wanted to do his part to make sure the nearly 200 Sedgwick colleagues in Rancho Cordova weren't contributing to that statistic. In April 2019, he made the business decision to eliminate disposable cups and invest in reusable ones for both offices. Incremental changes like this, when carried out across our global network, can lead to exponential improvements.

LOOKING AHEAD

We're proud of the progress we've made so far, but we're not done yet. Throughout the year, we'll stay committed to using fewer limited resources, improving energy consumption and continuing to recycle and reuse. Sustainability is a collaborative effort, and it's up to all of us to take pride in the environment we live in. Our future depends on it.





How AI is redefining the claims world

BY **LEAH COOPER**

Managing Director, Global Consumer Technology, Sedgwick

Artificial intelligence (AI) is getting a lot of attention in the insurance industry these days for the potential efficiencies and increased accuracy it could bring to the claims management process.

The broad definition of what counts as AI runs the gamut from simple automation for carrying out a single job, to complicated systems that strive for human-like reasoning, behavior and problem-solving capabilities. There are three facets of AI: learning (the acquisition of information and rules for using it), reasoning (using rules to reach approximate or definite conclusions), and capacity for self-correction. It's important to understand, though, that there are many types of AI — each of which may or may not be of practical or useful application in our workflows.

TYPES OF AI AND APPLICATIONS IN THE INSURANCE INDUSTRY

ROBOTIC PROCESS AUTOMATION (RPA)

In claims management, RPA software typically uses a narrow scope to mimic human activity against a software application. In layman's terms, the RPA "bot" (a software application itself) replaces multiple, repetitive keystrokes and mouse functions with the click of a single button. In this way, RPA tools can introduce new efficiency and accuracy into a user's daily routine. As an example, let's say one step in the workers' compensation process is to notify an employee's supervisor he's been cleared to return to work. Many TPAs will generate automatic text or email messages sent to the employee to confirm; once confirmed, the examiner will go through a series of steps to complete the process. Because these actions need little in the way of analytical — human — decision-making, a bot could review the log of inbound confirmations, open a claim based on the

record tied to the confirmation, enter the return to work date, and automatically fire off a corresponding email notice to the supervisor. This eliminates time-consuming administrative work from the examiner's daily responsibilities.

One challenge to implementing RPA tools successfully is identifying those motions. Business process discovery, another RPA-related tool, can be installed within an organization to observe the administrative team's actions. Using AI, it would conduct a series of hypothetical scenarios to determine which actions may benefit from RPA. Tools like these can help ensure that claims management processes flow smoothly and proficiently for all work streams.

RULES-BASED DECISION ENGINES

Examiners make dozens — sometimes hundreds — of decisions a day using logic based on relevant claim data. Rules-based engines work to automate that kind of activity by assessing all possible inputs and circumstances, then concluding which tasks need to be performed.

Remember when Deep Blue became the first computer system to win at chess against the reigning world champion? That was a classic example of a decision engine. Companies with extensive claims management experience have a wealth of history and data to draw upon when designing rules engines to facilitate or automate the handling process. Practical applications within modern claims management include selecting recipients for new claim notifications, triaging claims based upon anticipated severity, and even evaluating low-dollar or low-severity claims for potential automation.

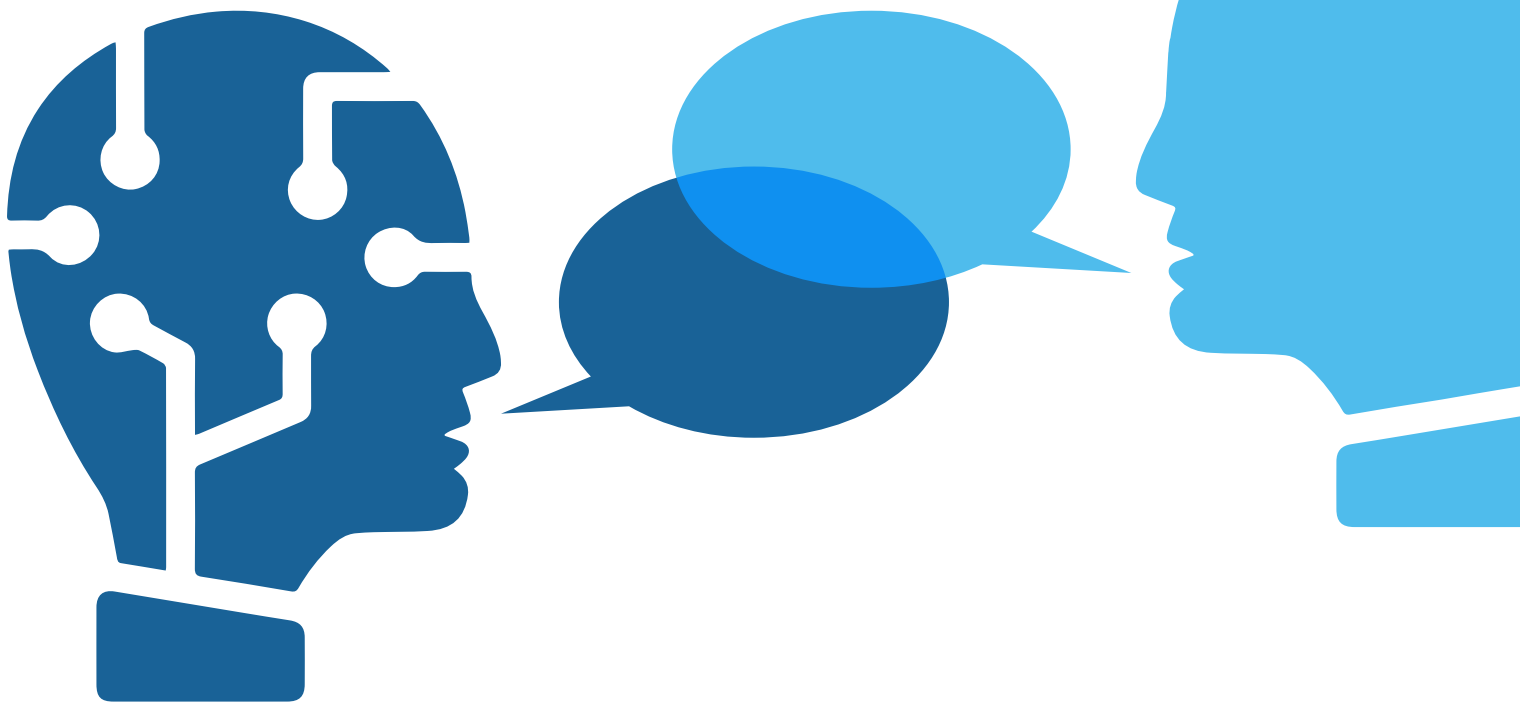
MACHINE LEARNING

At its core, machine learning means training a computer to learn and respond like a human would. There are hundreds of modern examples of this: self-driving cars, email SPAM filtering, targeted online shopping suggestions, image recognition and analysis. Machine learning uses a series of algorithms to parse through billions of pieces of data, then it draws conclusions using decision trees and statistics to get to a desired end result.

Some of machine learning's practical applications in the insurance industry include:

- **Chatbots:** Consumers expect 24/7 customer service these days. Because few organizations can afford to staff employees around the clock, virtual customer service tools like chatbots are growing in popularity. With a chatbot, the user carries on a conversation with a computer, through an AI concept called natural language processing. This linguistic-based technology mines an ever-expanding amount of data to determine what the user is looking

for help with based on the conversation. A chatbot must understand and recognize that a question about claim status may actually mean something else — like, "Has my claim been approved?" The chatbot can guide the user to helpful responses or provide links based on the information within a chat session. Thanks to AI's machine-learning capability, the more a chatbot is used, the "smarter" it becomes in identifying and solving problems.



■ **Digital image recognition:**

AI has made tremendous strides over the past few years in mimicking a human's visual cortex in order to recognize objects, motion or characters within a picture. The latest technology in self-driving vehicles must be able to recognize and classify things like lines on a road, obstacles and pedestrians. In the claims space, carriers are now using AI to conduct real-time automotive damage assessments or estimate damage to roofs or buildings after catastrophic storms. In the medical industry, AI is now being applied to radiological images to detect bone fractures, lesions and other types of medical anomalies needing treatment. There will always be concern from the carrier's perspective about potential inaccuracies, but increased computing capacity and quantity of available data records improve the likelihood that this technology will continue to spread throughout the claims industry.

■ **Predictive modeling:**

Often referred to as decision optimization, predictive modeling software analyzes past claims experience to determine patterns that will predict the outcome of a claim. When run continuously against an examiner's daily claim activity, it can evaluate the attributes and dollar amounts within a claim to trigger a deeper dive. Early intervention models are meant to change the outcomes of high-severity claims, which might have long durations and could create a challenge in determining costs at the beginning of the claim lifecycle. Flags may be set that alert examiners to the possibility of large losses, litigation, high complexity, or the need for intervention when combinations of prescription drugs may be problematic or dangerous. This allows program administrators and risk managers to focus on specific at-risk claims in order to apply appropriate resources early on, making an impact in key areas like return to work and getting the best healthcare for injured employees.

■ **Cutting-edge security tools:**

The latest AI network security tools can monitor, classify and visualize cyber threats by ingesting all data sources within a company's wide area network (WAN), including egress and ingress points. This type of software will create a baseline for what "normal behavior" is for that organization, and can then detect anomalous and malicious activity as well as other emerging threats in real time. This includes insider threats, low-and-slow attacks and automated viruses like ransomware.

WHERE AI IS HEADED

Many AI discussions hypothesize about whether the expanded use of software could really oust human activity. Without some form of emotional intelligence (EI), AI can't begin to replace an examiner with a system. New telephonic technology used in call centers seeks to detect stress levels or dissatisfaction in a caller's voice; the software analyzes changes in speaking pattern, agitation, tension in a voice and other sounds a caller makes to alert agents to an unhappy customer. The science of improving EI across insurance organizations will enable claims teams to build stronger bonds and enhance communication practices with consumers.

We'll also begin to see data become "federated" across organizations in new ways. Data federation is the practice of pulling together and aggregating data from many separate remote data sources into a single model. Assembling relevant data from different enterprises allows for new approaches to data mining; cluster analysis and anomaly detection allow organizations to recognize correlations and outliers in data sets.

Really, though, it's nearly impossible to predict where AI will go next. As technology evolves, it will process infinitely more data than ever before. Ten years ago, nobody could have guessed that chatbots would work to discern a sentiment, detect frustration or interact with remote databases to provide relevant, real-time responses. And while the future of AI seems boundless, it's important to realize that machines do have limitations. Computers can analyze patterns and tell us the best way to get from point A to point B, but they can't tell us the context that informs the decisions. Humans have to understand nuances, idiosyncrasies and the unique behaviors that guide our communications with others. In that way, our people are irreplaceable.





Edging up

*Short takes on emerging industry issues, legislative updates
and new services*

Should we stay or should we go?

EMERGENCY PREPAREDNESS REQUIREMENTS GET AN UPDATE FOR HEALTHCARE FACILITIES

BY **SUSAN BURNS**

AVP, Specialty Operations, Professional Liability, Sedgwick

On a near-daily basis, the news can be fraught with alerts about natural and man-made disasters. For healthcare and long term care organizations, these kinds of events trigger a different level of concern. HR, operations and risk management professionals are faced with challenges in caring for their patients and staff, managing logistics and facilities, ensuring safety and also thinking about how to cover expenses. Comprehensive, effective emergency preparedness and evacuation planning are critical in maintaining order and health. And, just as important — particularly with the latest updates to U.S. Federal Register requirements, which took effect November 29, 2019 — these facilities must ensure compliance and take appropriate actions to preserve reputation in the midst of a crisis.

Historically speaking, today's compliance requirements were triggered by disaster response inadequacies revealed in the midst and aftermath of Hurricane Katrina. Vivid memories of desperate nursing home residents in wheelchairs submerged waist-high in flood waters will forever be etched in our minds, and change was necessitated when an alarming rate of non-compliance was uncovered following the hurricane. The Centers for Medicare and Medicaid Services (CMS) found more than 1,850 incidents of nursing homes that failed to have written emergency evacuation plans between 2011 and 2018. In addition, they found 3,770 nursing home violations of the requirements to inspect power generators weekly and test them monthly, according to a review of CMS' Nursing Home Compare Safety Deficiency data.



With the goal of preventing that level of trauma from ever happening again, CMS implemented measures requiring each long term care and healthcare facility to have an effective emergency preparedness plan and evacuation strategy. In September of 2016, CMS published the Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers Final Rule in the Federal Register. The purpose of the final rule was to establish national emergency preparedness requirements to ensure adequate planning for natural and man-made disasters, as well as coordinate with local, state, tribal, regional and federal emergency preparedness systems. And CMS added heavy consequence to inaction — if a facility was out of compliance, it was at risk of losing reimbursement.

CMS' rule includes four core components:

1. Risk assessment and creation of an emergency plan based on disaster risks and likelihood of occurrence
2. Creation of policies and procedures with an all-hazards approach to emergency preparedness
3. The development of a plan to maintain communication with state and federal authorities
4. The creation and execution of training and testing exercises to verify understanding of changes and/or policies within the new rule

Since its establishment in 2016, providers have struggled with some aspects of CMS' emergency preparedness rule. Paperwork became a burden and a hindrance to progression, prompting re-evaluation in recent years and, ultimately the latest rule change, which came into effect this November. It's part of CMS' "patients over paperwork" initiative — a shift in practice to ensure paperwork doesn't overshadow care — and some requirements have been relaxed in order to decrease the regulatory burden on facilities and individual providers.



In the latest updates to CMS' rule, select emergency preparedness requirements have been reduced for most settings — except long term care facilities. The current mandate requires annual self-review of the provider's emergency program every other year, rather than every year. This biennial requirement also applies to training and testing around emergency preparedness, again with the exception of long term care facilities, which are still required to fulfill these requirements every year. CMS' stance is that the vulnerable populations served by these facilities rely more heavily on staff preparedness; more frequent training and drills aid in familiarity and help reduce fear and panic among these patients and residents.

The latest rule was updated regarding the following testing exercises:

- Providers are allowed to choose the type of test they administer: community-based, full-scale testing or facility-based testing.
- A facility that experiences a real-life event involving the activation of their emergency preparedness plan may use that event to satisfy one of the required exercises.
- A second exercise is still required and cannot be supplemented with a real-life event.

CMS has also lifted some documentation requirements:

- Providers and suppliers no longer need to document efforts to contact local, tribal, regional, state and federal emergency preparedness officials, or document participation in "collaborative and cooperative planning efforts."
- Providers must have a documented process in place that addresses cooperation and collaboration with emergency preparedness officials to maintain an integrated response during a disaster or emergency response.

A risk assessment should still include these foundational elements:

- Maintain an emergency preparedness plan that aligns with the Federal Register rule.
- The decision-maker during the time of emergency must understand all internal and external considerations when determining the correct steps the facility should take.
- Understand all parts of the equation when making decisions, such as items necessary for residents during their stay.
- Communication is essential in maintaining consistent understanding of the steps that will be performed.

Providers are still facing challenges with regard to care, costs and coverage in light of these requirements. Healthcare and long term care facilities sometimes face high staff turnover, so more frequent training is critical. Evaluating a facility is complex — preparation must be made for transportation, housing, food, staffing, medical records, medication, medical equipment and essential communication. Reputational costs should also be kept in mind; comprehensive planning can help ensure safety of patients/residents while also safeguarding your facility's reputation.

Financing is another challenge — how do you pay for the execution of the plan? When seeking reimbursement, there are two critical points to remember:

- Reimbursement requests must be submitted in writing during the policy term in which the evacuation occurred or within any applicable extended reporting period linked to the address covered by the policy.
- Include proof of payment for pertinent evacuation-related costs; provide copies of all receipts for essentials.

Regarding coverage, it's helpful to understand these three key points about evacuation expense reimbursement coverage:

- It is separate from property coverage and is often seen as an endorsement on your general liability or professional liability policy.
- It does not require the occurrence of any property damage to be triggered.
- As reimbursement coverage, evacuation expenses must be paid first and then submitted for compensation.

It's important to plan your work — know your risks, create an emergency plan (and include a "Plan B") and build support — and be ready to work your plan. Following these steps will help you to react quickly, confidently and safely when faced with a crisis and enable you to maintain care and compliance throughout the process.

RESOURCES

DMEC Hospital System Industry Group webinar: "Should We Stay or Should We Go? Considering Care and Costs in the Face of Disasters"

<https://event.on24.com/wcc/r/2147677/85A77AD103D47DC59C288426260EE9>

CMS.gov: Emergency Preparedness Rule

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/Emergency-Prep-Rule>

Health News from NPR: "Safely Evacuating The Elderly In Any Emergency Takes Planning And Practice"

<https://www.npr.org/sections/health-shots/2018/12/28/673710296/safely-evacuating-the-elderly-in-any-emergency-takes-planning-and-practice>

Sedgwick connection blog: "Should we stay or should we go? Hurricane preparedness in long term care"

<https://www.sedgwick.com/blog/2018/09/21/should-we-stay-or-should-we-go-hurricane-preparedness-in-long-term-care>

Sedgwick connection blog: "Should we stay or should we go? Considering both care and cost"

<https://www.sedgwick.com/blog/2018/11/04/should-we-stay-or-should-we-go-considering-both-care-and-cost>

California Consumer Privacy Act update

FROM **THE SEDGWICK PRIVACY OFFICE**

The California Consumer Privacy Act (CCPA), which took effect January 1, 2020, provides new privacy rights for California consumers. Sedgwick's privacy office has been working with a cross-functional project team to ensure compliance with the CCPA and the California Attorney General's proposed rules.

Below are some important points related to the CCPA and how it applies to key areas of our business:

- The right of deletion will be limited to claims; there are exceptions for activities such as completing transactions, detecting security incidents, fraud and illegal activity, and to comply with legal obligations
- Sedgwick will have exceptions to the broad definition of "sell, selling, sale and sold" when it relates to individual consent and a "service provider to perform the business purpose"
- Exceptions also include the following – to comply with federal, state or local laws, exercise or defend legal claims, for evidentiary privilege, under the CA Confidentiality of Medical Information and under the California Financial Information Privacy Act governing Sedgwick

In addition, our team is updating specific communications and other materials as necessary. We are also working with industry groups to provide comments on the proposed rules.

After the CCPA was passed, a new initiative called the California Privacy Rights and Enforcement Act was announced and has been submitted for the November 2020 ballot in California. We will continue to monitor these important privacy and security laws as they evolve. If you have any questions, please contact your client services director.

RESOURCES

CCPA (Title 1.81.5, Section 1798.100)
https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB375

CCPA background and rulemaking activities
<https://oag.ca.gov/privacy/ccpa>

California legislative information
<https://leginfo.ca.gov/>

California Consumer Privacy Act update. Brenda Corey, SVP, Compliance and Regulatory. Edge 11.
https://edge.sedgwick.com/issue_011/edging-up/

California Privacy Rights and Enforcement Act announcement. Californians for Consumer Privacy.
<https://www.caprivacy.org/>

Sedgwick helps clients benefit from Oregon reimbursement program

BY **CHERYL DANNEN, MBA**

Strategic Project Manager, Sedgwick

Sedgwick recently began providing administrative services to help clients participate in the Oregon employer-at-injury program (EAIP), which offers reimbursements to employers that provide transitional duty options for injured employees.

The Oregon EAIP reimburses employers 45% of the employee's early return to work gross wages for up to 66 work days within a 24-consecutive-month period. This rate will increase to 50% for dates of injury after January 1, 2020. For employers that wish to participate, Sedgwick completes the administrative steps starting with identifying qualified claims and adding the necessary system fields. Employers provide the required payment details for the state forms including the employee's modified job description, hours and wages paid while working modified duty. Once all the information is gathered, our team completes and submits the forms.

Having the ability to provide these services in-house and manage EAIP details and claims information on the same system increases efficiency for our clients and examiners. Our claims management system includes features to track periods of modified duty and the reimbursements from the state and routes the reimbursements directly to your existing account.

If you have any questions about the EAIP requirements, please contact your client services director at Sedgwick.

RESOURCES

Oregon EAIP

<https://wcd.oregon.gov/rtw/Pages/eaip.aspx>

Oregon Workers' Compensation

Division website

<https://wcd.oregon.gov/Pages/index.aspx>

Insurance repair, Brexit and the elephant

BY **CHRIS CARLTON**

Director, Repair Solutions, Sedgwick

Brexit has caused a lot of discussion around potential impacts, threats and mitigations. Like many organizations, we've been carefully monitoring the situation and talking to our building repair and restoration contractors about their views from the factory floor.

In a recent industry survey, 75% of our building contractors told us they had minimal concerns about the current political situation and the likelihood that it would affect their companies. The positive outlook and level of confidence may be connected to an individual's political views and whether respondents identify as a leaver or remainer. One contractor said, "No matter what happens, we will all survive and thrive from any given situation."

Just under 25% of survey respondents went on to explain the recent issues they've faced involving material availability and shortages. These issues seem to be driven by some national contractors and developers stockpiling bricks, blocks, timber, tiles and, most noticeably, plasterboard. And the large percentage of contractors that were unaffected indicates that this is a regional issue.

However, the main concern expressed by contractors in the insurance building repair industry isn't based on political leadership, Brexit, or materials. The problem on the horizon, and what some may call the elephant in the room, is a shortage of skills. Two-thirds of contractors surveyed shared that this is already a challenge for them. And surveyors aren't the only shortage they've experienced. 100% of the respondents who saw this as a challenge also find it difficult to recruit tradesmen. But is this a Brexit-driven problem? Probably not. One contractor shared, "This has nothing to do with Brexit or anything political for that matter. There is a huge skill shortage across the whole industry, as well as a noticeable skills gap in new trades joining the industry and older trades retiring."

There's some recognition of this in our sector of construction and great work being done by the insurance apprenticeship academy to help develop the skills for the future, with a new program launching shortly. We know that technology is, and will continue to impact everything we do. But with 25 million houses in the U.K. — most of which have been traditionally built, and are likely to suffer peril damage — I can't yet foresee how emerging technologies will replace tradesmen on insurance repair work.

Brexit will come and go but our challenge will continue. We're always going to need plasterers who can complete small patch repairs to finishes after subsidence cracks have been perfected. We're always going to need bricklayers who can cut new sections of brick wall after impact damage. And we'll always need decorators who can re-paper a bedroom after water damage. Our challenge is to position the construction sector as the employment sector of choice, and to attract younger generations who see the potential for meaningful and fulfilling long-term careers. We're in a unique part of the construction industry, with the ability to help people when things have gone wrong with their homes, and help make it right. That's the message to promote if we are going to ensure stability in tomorrow's workforce.

Shaping the future of U.K. flood resilience

BY **IAN GIBBS**

National Technical Manager, Sedgwick

In 2007, catastrophic flooding in the U.K. killed 13 people, saw 420,000 inhabitants left without drinking water and was estimated to have caused nearly £6 billion of damage. This disaster was the trigger for a number of insurance and government-led initiatives, aimed at not only dealing with the aftermath of flooding, but more proactively managing and reducing the risk.

With flooding now a regular occurrence the question is not only how can we prepare for an immediate threat, but also what can be done to address flood trends in the longer term?

For those communities across the U.K. that are at risk of flooding, a Pathfinder project has been established by U.K. Department for Environment, Food & Rural Affairs (DEFRA). The project aims to work with key partners, including local flood authorities, to create professional hubs or demonstration sites. These hubs will provide training and other uptake activities to increase industry and public knowledge to reduce the impacts of flooding.

DEFRA has recently announced that it will provide £2.9 million in funding for this Pathfinder project which will allow these communities to better understand and implement flood resilience measures. The project will run from September 2019 to March 2021. The Pathfinder project will develop three regional hubs across the country to promote and support the uptake of resilience at property level. The successful bids came from York, Northampton and Cornwall and they will be joined by other local authorities to cover a wider geographical area. Each area will receive around £700,000 each to boost research into property resilience measures.

Sedgwick is continuing to be involved in the development of flood resilience under this Pathfinder project and I personally serve on the resilience round table for part of the Pathfinder steering group. This roundtable will work with the projects in Yorkshire, Devon and Cornwall, and Central England to meet the joint objectives and promote property level resilience.

This project, along with the development of the code of practice, fits closely with Sedgwick's strategic goals in making flood resilience a mainstream approach to flood risk. Through our years of experience and insight in managing water-related claims, our Sedgwick team have gained extensive knowledge on the best restoration solutions and how to minimise future threat and cost of flood claims. We work to help our clients deliver advice to their customers, and continue to make resilient repairs part of the flood reinstatement work.

The code of practice is currently being developed by the Construction Industry Research Information Association (CIRIA), as part of the strategy of the resilience round table and will be rolled out early in 2020. It will allow all parties commissioning, delivering and relying on flood resilience to have a clear best practice guide to rely upon.

I'm honoured to serve as part of the Pathfinder round table in finding solutions to address flooding and resilience now and into the future. If you're looking for support through the current flood season, please connect with me at ian.gibbs@uk.sedgwick.com.

*Learn more about the future implementation of resilience in the U.K. in our **2019 autumn issue of Sedgwick News**.*

RESOURCES

2019 autumn issue of Sedgwick News
https://www.sedgwick.com/assets/uploads/documents/1552-Sedgwick-Newsletter_Issue3_OCT19_4.pdf

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