

# Environmental Damage and Pollution Legal Liability

## Claims Example – **Bartoline**

This factsheet provides a summary of a claim that was realised by a manufacturing company. The case highlights the limitations of pollution coverage available under public liability policies.



### **Operator Type**

Manufacturing and packaging of solvents and wood preserves, Bartoline Limited.

### **The Background**

Bartoline suffered a massive fire at their factory in 2003.

Fire water runoff which contained chemicals and firefighting foam posed a risk to local watercourses.

The environmental regulator exercised its statutory powers and carried out emergency works to protect the local watercourses.

Bartoline were also ordered under the Water Resources Act 1991 to carry out further work to reduce contamination and prevent pollution.

### **Costs**

The environmental regulator sought to recover the costs for the emergency works from Bartoline.

The total cost for the environmental regulators action and further clean-up by Bartoline was approximately £770,000.

### **Discussion and Comments**

The case *Bartoline v RSA* 2006 held that offsite clean-up costs sought by public enforcing bodies were not covered by the claimant's public liability policy.

Insuring clauses in public liability policies only cover civil law/tort liabilities. The regulators costs were a statutory debt. The sums claimed did not constitute "damages" under the public liability policy.

Despite being a 'sudden' & 'accidental' event, the risk was not covered by public liability policy.

### **The 'Bartoline' Extension**

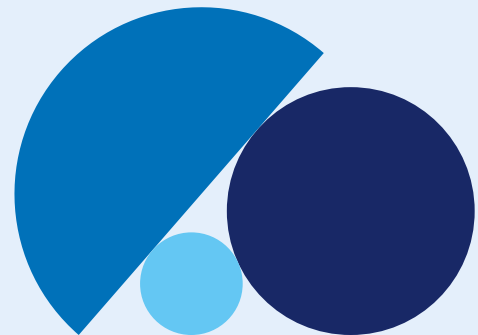
Insurers responded to this event and led many to offer clean-up cost extensions to public liability policies with the aim of including statutory liabilities to some extent within the policy cover.

The extensions available are helpful however they do not close the gap in cover for statutory liabilities. The following coverage problems are not addressed within the extension:

- Liability from 'gradual' pollution
- Statutory clean-up and remediation costs of own site pollution
- Statutory liability for biodiversity
- Statutory liability for dealing with imminent threats of environmental harm.

### **Contact Us**

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