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EXPLAINED

COMPLEX PROPERTY CLAIMS

A short guide

2017

ZURICH

HERBERT SMITH FREEHILLS

MARSH

Cunningham Lindsey

Acknowledgements

Herbert Smith Freehills

As one of the world's leading law firms, Herbert Smith Freehills advises many of the biggest and most ambitious organisations across all major regions of the globe. Its insurance and reinsurance lawyers have an outstanding reputation in complex, high profile insurance and reinsurance disputes and for providing strategic legal advice and representation to corporate policyholders. Herbert Smith Freehills is Airmic's Preferred Service Provider on insurance law issues and has assisted Airmic in producing a number of its technical guides over the past few years.

Marsh

Marsh is a global leader in insurance broking and risk management. In more than 130 countries, our experts help clients to anticipate, quantify, and more fully understand the range of risks they face. In today's increasingly uncertain global business environment, Marsh helps clients to thrive and survive.

We work with clients of all sizes to define, design, and deliver innovative solutions to better quantify and manage risk. To every client interaction we bring a powerful combination of deep intellectual capital, industry-specific expertise, global experience, and collaboration. We offer risk management, risk consulting, insurance broking, alternative risk financing, and insurance programme management services.

Cunningham Lindsey

At the heart of Cunningham Lindsey as a global market leader is our 6000+ people, in 600+ offices, spanning 60+ territories who work together to help our clients in times of need. We provide loss adjusting, claims management and risk solutions to insurers, brokers and risk managers.

We have learned that, when it comes to customer service, there is no one-size fits all approach.

We tailor our products and services based on your actual need. Whether you are in a small corporate, requiring guidance on your risk management systems, or a large insurer with a complex, global loss, we will use our experience to find a customised and cost effective solution.

Zurich

Zurich is a leading multi-line insurer that serves its customers in global and local markets. With about 54,000 employees, it provides a wide range of property and casualty, and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, and mid-sized and large companies, as well as multinational corporations.

Claims have always been our priority and we want to take our service to the next level and that's why we developed our Zurich Commercial UK Claims Commitment. Whatever the size of the claim, our Commercial Claims Commitment ensures that we will work closely with you and settle accepted claims (building upon our 99% claims paid record), as fast as possible whilst robustly defending you against unwarranted claimants.

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Introduction

The insurance manager has the responsibility of managing a major claim. The outcome is the true acid test of any insurance programme purchased by an organisation and, for the insurance manager, it can be a career-defining moment.

A slow, mismanaged claim can be frustrating on a personal level, but also catastrophic to the organisation. There is a need to ensure financial stability - protecting the share price and obtaining coverage affirmation quickly is usually paramount to ensure that there is no risk to the organisation's ability to compete in the long term. In the increasingly complex, transparent and digital world insurance managers will need to consider the implications of a major event on their internal and external stakeholders too.

Figures vary, but Zurich states that large organisations only suffer a truly 'major loss' once every 10 years, meaning that for many Airmic members, they haven't yet been tested in this way. Being at the centre of a major claim can be a huge challenge for an insurance manager and involves a significant shift in their responsibilities and role in the business.

'The rubber really hits the road when there is a major claim and the insurance manager essentially becomes 'a target'. This can be an unpleasant experience as their role will change from being the one who asks the questions, to the one being asked all the questions. You can never be 'over-prepared'.'

Colin Campbell, Head of Risk & Compliance, Arcadia

Airmic regularly surveys its members and sponsors on why claims are challenged or fail, with the following always scoring highly:

1. Appropriate cover wasn't in place
2. Lack of available data to evidence the claim
3. Failure to comply with conditions, particularly claims conditions precedent to liability

Once a loss has occurred, it is too late to rectify the cover in place. However, Airmic members are encouraged to have clearly established claims procedures to help avoid challenges based on data and compliance with policy terms.

This Airmic paper highlights the consequences of a major property damage event, the challenges that an insurance manager will face, and the stakeholders they will need to interact with internally and externally.

What is a complex claim?

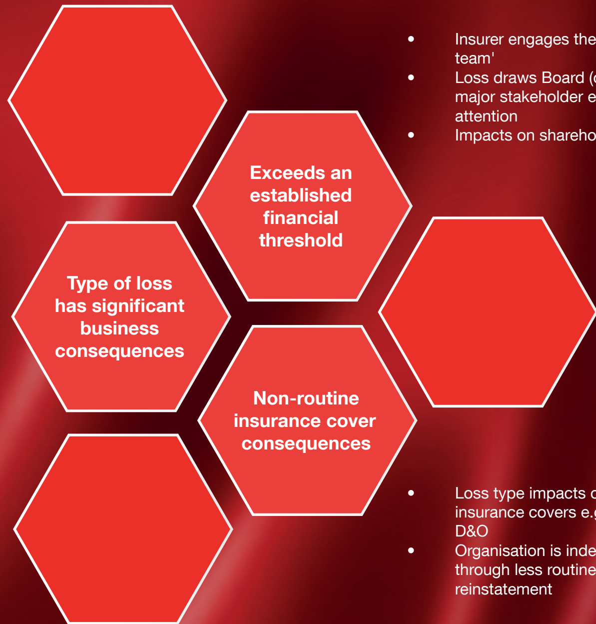
A major or complex loss is hard to define as no claim is the same.

'Even if in financial terms a loss is small, if it has the effect of 'stopping the tills', we consider it a major loss and treat it accordingly.'

Robert Lewis, Claims Leader for the Risk Management Practice, Marsh

The loss features that can be 'red flags' to an organisation, suggesting that the incident may lead to a lengthy and complicated claims handling process.

- Loss has fundamental business impact, increasing business interruption loss
- Exceeds a 'materiality threshold' where financial or contractual obligations are affected

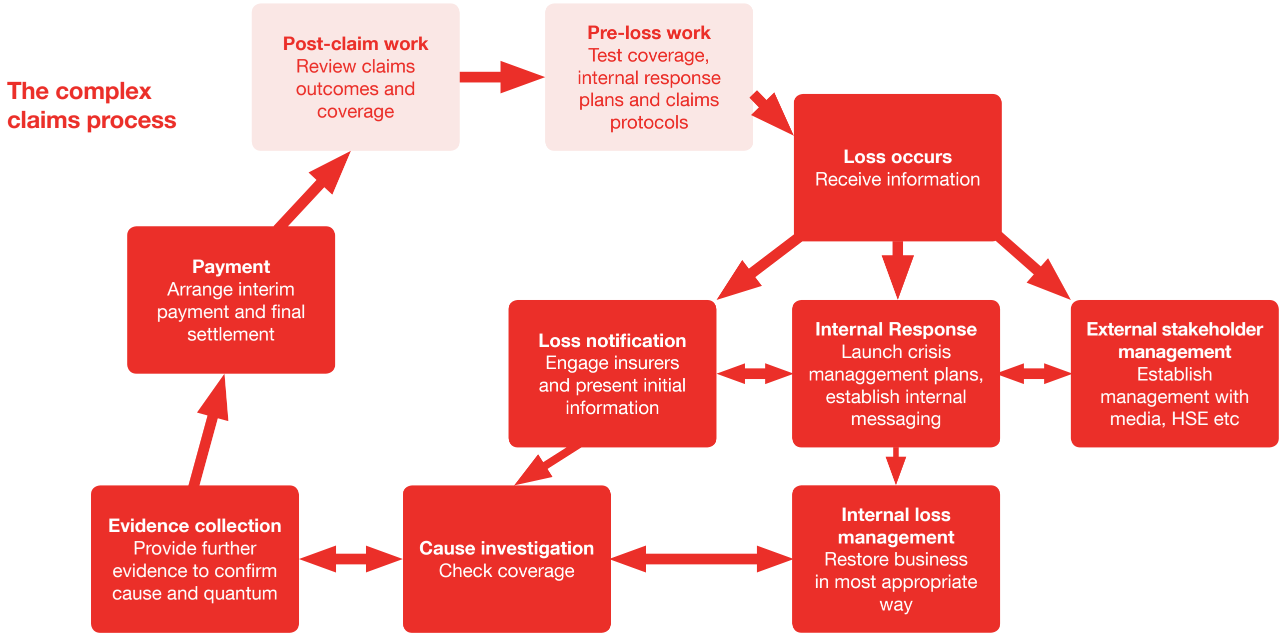


- Insurer engages the 'large loss team'
- Loss draws Board (or other major stakeholder e.g. media) attention
- Impacts on shareholder value

- Loss type impacts other insurance covers e.g Casualty, D&O
- Organisation is indemnifed through less routine method e.g. reinstatement

The complex claims process

The Airmic claims process highlights the various ‘stages’ that an insurance manager can expect in the event of a major incident and claim. Each will be considered in this paper.



The major loss actors

Perhaps the greatest challenge facing an insurance manager is working alongside and managing the expectations of all the parties with an interest in the claim progress. Developing an effective relationship with these parties before a loss is critical for the smooth running of the claim. The insurance manager will need to strike the right balance between project managing and taking control of the claims management process, whilst enabling the internal and external experts to perform their roles and assist where they can.

The major loss actors

The insurance manager

Key internal support

- Internal legal
- Finance team
- Teams directly affected by incident e.g. operations or facilities management
- Business continuity and disaster recovery teams

Insurance / claims contacts

- Insurer claims and underwriting teams
- Broker account management and claims teams
- Loss adjuster
- Insurer lawyers and own lawyers
- Forensic accountants
- Experts depending on loss types

Other internal stakeholders

- The Board and Executive
- Communications and PR
- Corporate social responsibility

Other external stakeholders

- Media
- Regulators, e.g. Health and Safety Executive
- Shareholders
- Customers and suppliers
- Third parties affected or involved in the loss
- Pressure groups

The insurance manager

'You (or whoever you may appoint/your nominated representative) will need to become an effective project manager. Take ownership, control the discussions and document everything. At each stage of the claims timeline agree the next steps with all other parties to keep everyone on the same side.'

Candy Holland, Managing Director, Echelon Claims Consultants

Internal support

'We need clear financial information to evidence the claims, but our greatest challenge is getting adequate resources across the business, particularly as a claim starts to 'drag'.

Senior level support is needed early.' Airmic member

Insurance/claims contacts

'Insurers bring specialist loss experts in early, and these experts are in short supply. I've therefore made the most of our smaller, routine claims to build up relationships and contacts of our own. Developing the underwriter as an ally has been useful, as they can confirm how cover was intended, if there is a lack of clarity.'

Colin Campbell, Head of Risk & Compliance, Arcadia

Other internal stakeholders

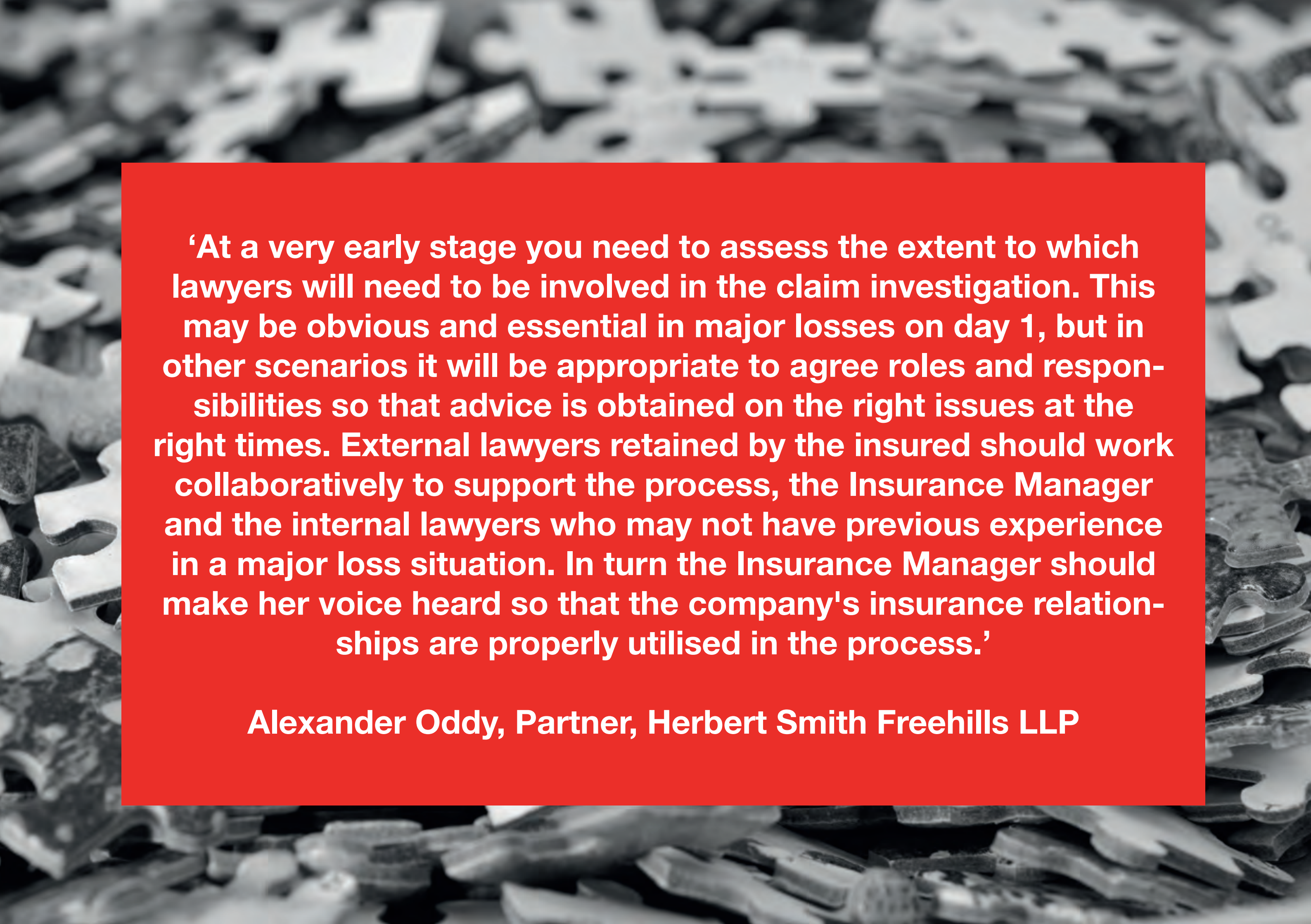
'The Board ask three questions, who is to blame, where can a recovery be made, and when will the claim be paid. Managing their expectations, and not promising too much is key! I refrain from giving expected settlement numbers until there is more certainty.'

Chris McTear, Insurance Manager, Tideway

Other external stakeholders

'An urgent and appropriate response is key. Insureds often worry that saying 'sorry' is an admission of liability, especially where third parties are involved. It isn't, and this can really help mitigate the reputational impact of an incidents.'

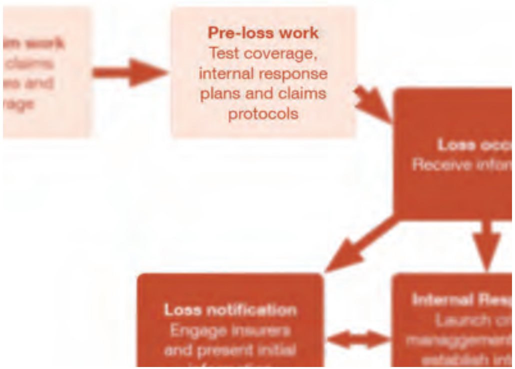
Robert Lewis, Claims Leader for the Risk Management Practice, Marsh



‘At a very early stage you need to assess the extent to which lawyers will need to be involved in the claim investigation. This may be obvious and essential in major losses on day 1, but in other scenarios it will be appropriate to agree roles and responsibilities so that advice is obtained on the right issues at the right times. External lawyers retained by the insured should work collaboratively to support the process, the Insurance Manager and the internal lawyers who may not have previous experience in a major loss situation. In turn the Insurance Manager should make her voice heard so that the company's insurance relationships are properly utilised in the process.’

Alexander Oddy, Partner, Herbert Smith Freehills LLP

Stage 0 Pre-loss work



Much of what's important for getting any claim paid lies in the actions and approach taken by insureds long before the loss event.

Scenario analysis exercises require businesses to consider the potential events that might affect them and ask 'what can happen, what would happen to the business and what would we do?'

1. **Test coverage, identifying any limitations or gaps**

   Airmic members report that 'different interpretations of coverage' is a frequent reason for claims challenges. Confirm and clarify interpretation and test how different polices will interact with each other, ensuring there are no gaps in cover. Identify any implications for disclosure requirements.

2. **Identify the 'claims actors' and develop relationships**

   Insureds should meet with all 'insurance actors' (loss adjuster, lawyer, etc.) and have those they will need to engage with named on the policy. Develop relationships and clarify the communications strategy to and from the business; who will you need to speak to, when will you need to speak to them and what information will you or they require?

3. **Develop claims protocols**

   Consider the steps required post loss to ensure full and rapid claims payment. These include engaging and dealing with external experts and developing internal claims protocols, including clarifying how insurance information will be gathered across the business.

‘We link our claims scenarios to our disaster scenarios. After a major incident, the orgnisation will want to establish three teams: crisis management, business recovery and insurance recovery. Despite no loss playing out as expected, these three teams need to be familiar with one another and practised in how they will react.’

Airmic member

‘Getting internal support for an insurance exercise can be challenging. We prefer to use ‘realistic disasters’ when testing the limits of our policy. We find that by basing the scenario on real events or addressing issues of concern raised by our business, we are able to stress the value of insurance to the business and get much greater engagement from senior decision-makers within our organisation.’

Group Insurance Manager, Food and Drink

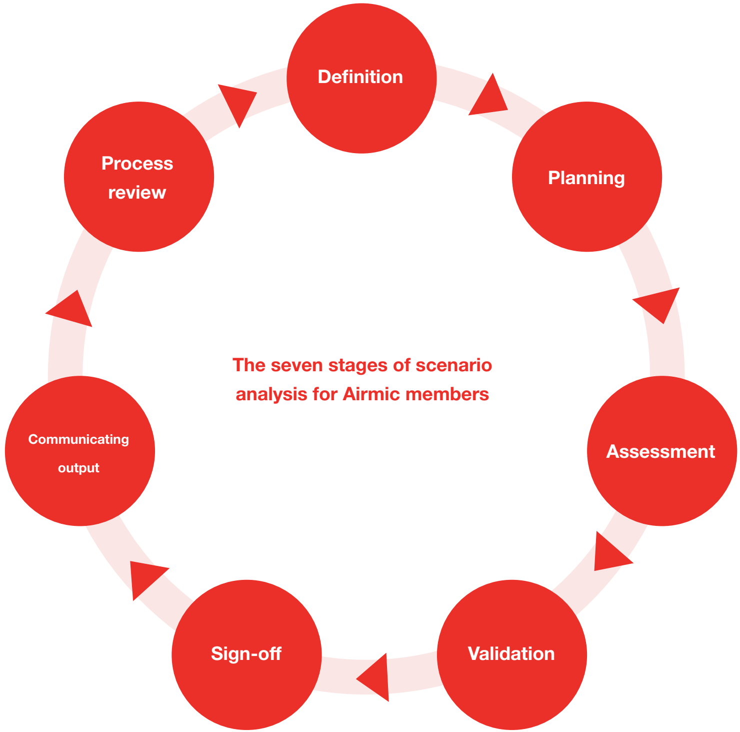
‘A claim is the best test of how an insurer will behave, and scenarios are an indicator of that behaviour. It improves understanding between all parties, which diffuses tension in the event of an actual loss. For example, we can explain why and when a lawyer would be brought in.’

James Nicholson, Head of Global Corporate UK Claims, Zurich

‘Scenarios are predominantly used to test the 'lesser-trodden' areas of the policy. Successful claims management requires a personal and collaborative approach and an additional benefit is all relevant parties gathering to ‘see the whites of each others eyes’. Pre-loss scenario planning sessions facilitate this by allowing key claim participants to build a working relationship in a safe environment. This is much easier to do without the stresses in play when a large loss occurs.’

Spencer Owen, Global Claims Executive, Zurich

Figure 3 summarises Airmic's seven-step process for scenario analysis. More information can be found in 'Scenario analysis: A practical system for Airmic members'.



Scenario analysis stage	Actions for the risk manager
1 - Definition	• Identify the risks that could be seriously damaging to the business if the insurance cover failed
2 - Planning	• Engage external and internal scenario participants, stressing the financial quantification of the exercise to engage the senior finance team • Confirm output, e.g. documentation of the wider business impacts, and corresponding analysis of cover and implications for disclosure requirements
3 - Assessment ***Carrying out the scenario***	• Debate the business and financial impact of the loss • Clarify the claims management requirements
4 - Validation	• Validate the outcome of the scenario with other relevant parties, e.g. business operations, to confirm that the scenario developed was both realistic and credible
5 - Sign-off	• Review scenario output against the insurance programme, confirming any gaps, limitations or areas requiring clarification • Discuss required changes with the insurers and reflect these in the insurance policy itself
6 - Communicating output	• Share with relevant teams, e.g. management and business continuity to develop an appropriate internal response and non-insurance controls
7 - Process review	• Review scenario output in response to internal and external events • Compare against other related scenarios

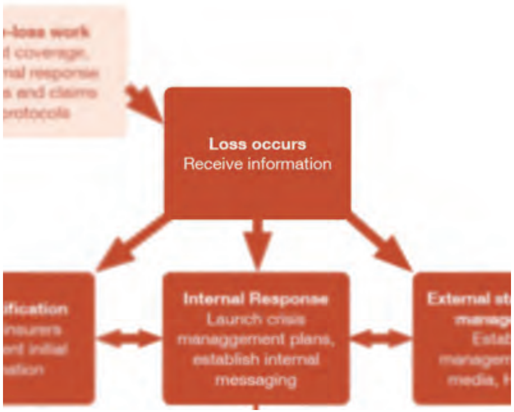
Case Study – Retailer

A UK retailer responded to the ongoing shift from in-store to online sales by reviewing the Business Interruption cover. The insurance manager interviewed internal business owners to understand what event or loss could most severely disrupt the core activities. This identified the loss of activity of a vital distribution centre as a major loss event, and the insurance manager subsequently brought the broker and all claims parties together to undertake a scenario analysis.
The scenario established the ultimate cost of loss if the loss were completely unmitigated, and if all risk controls and business continuity plans performed as expected.

The loss costs for both were mapped against the policy coverage, sum insured, internal limits and indemnity period. Although cover was found to be sufficient, some policy clauses were amended to add additional clarity between the claims parties.

Stage 1 Receiving notification of a loss

When a major property damage incident such as a flood or fire occurs, the insurance manager must ensure that they are one of the first to receive the details. Insurance teams must set up systems and protocols that ensure that they are made aware of any circumstances that may affect the insurance.



‘Not being notified of a loss is my biggest fear! I have made a significant effort to educate our business leaders in how losses must be reported to me, and what information I will need immediately.’
Somto Obi, Senior Finance Manager, Insurance & Risk Financing, BT Group

- Identify individuals across the business who are likely to have claims or circumstances reported to them, or be made aware of incidents first. Provide guidance on reporting incidents to the insurance team
- Develop education programmes and develop intranet systems for online reporting of major incidents
- Ensure someone from the insurance team is contactable 24/7, and can receive and respond immediately to overseas incidents too
- Establish the first questions to be asked when an incident is reported, e.g.
    - What is happening and where?
    - Is the location now secured? What steps have been taken to do so?
    - Who is present from the organisation and is everyone accounted for?
    - Who have they spoken to in the business already and who else is present?
    - What external parties are present or need to be notified?
- Provide information on first actions for on-site teams and guidance to ensure any recovery rights are not jeopardised
- Clarify with all internal teams that you must have oversight of all actions taken, and any information that is passed to the insurers, to ensure that the cost of recovery steps taken are recoverable from the insurers

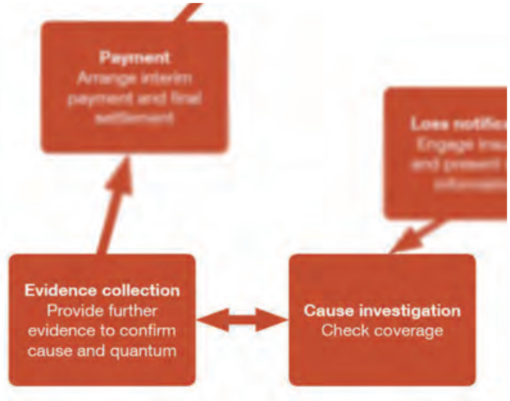
Stage 2 The first steps after a loss

The early phases of a claim are vital and this is where errors can be made. The onus is on the insured to prove the claim and it is the role of the insurance manager to ensure that all relevant information is collated and the actions taken by the business do not jeopardise the claim.

To avoid prejudicing the claim, all post-loss conditions must be studied in advance, to ensure they are realistic and understood. The insurance manager must have oversight of all loss-based communication, including any concurrent dialogues between the brokers and insurers, and third-party claimants. Additionally, the business stakeholders must be aware of insurance conditions affecting third-party recoveries and the presentation of insurer subrogation rights

Notifying the insurers	Internal response	External response
'The key is 'do what it says on the tin'. Notification must be in strict compliance with the notification provisions. Make sure you are aware of your 'circumstance notification' obligations in liability policies too.' Alexander Oddy, Partner, Herbert Smith Freehills LLP	'On day one, the business will rightly focus on safety and business continuity, but this needs to be alongside the insurance obligations.' Terri Adams, Senior Manager, FAS Global, Cunningham Lindsey	'Appropriate day one messaging is key. Media, customers, regulators and suppliers will be influenced on how you recognise the incident and map out your plan to deal with it.' Robert Lewis, Claims Leader for the Risk Management Practice, Marsh
• Call the broker. They can provide a calming influence and help notify the claim to all relevant insurers • A major property loss can often bring a range of liability policies into operation, so notify circumstances as appropriate before third party claims are received • Clarify the first pieces of information the insurer(s) and loss adjuster will require • Establish who in the insurance team will manage the 'claims stakeholder' relationships • Be realistic in your estimation of the impact of the loss. Consider the internal connections in the business that may increase the claim and recognise this when speaking to the insurers and internal stakeholders	• Meet with the crisis management and business continuity teams and establish internal response and communications • Make these parties aware of their obligations in terms of collecting and communicating loss information to you • Identify affected persons internally and externally and establish post-incident welfare • Understand how staff morale will be managed, and establish staff communications. The staff will ensure the success of many recovery actions, e.g. through flexibility over work location, hours or roles • Summarise to senior management and finance how the claim is likely to progress, highlighting that the cause will be the focus, before any sums are discussed • Brief colleagues on how to interact appropriately with loss adjusters and other experts representing the insurers	• Understand the potential for external investigation and the consequences on the loss response and claims. Major incidents, particularly those involving bodily injury or death, may attract external investigation from the emergency services and police • Review the external communications regarding the incident. Ensuring that the message is appropriate and transparent, but doesn't admit liability accidentally

Stage 3 Cause investigation and collecting evidence



The aim of the insurance manager is to prove the claim effectively and efficiently. Insureds must respond to all reasonable requests for information from loss adjusters and forensic accountants consistent with the terms of the policy to establish cause and quantum respectively. Be prepared to challenge requests for information constructively if the purpose is unclear relative to the policy coverage issues or the extent of the request is onerous relative to the value derived from the information requested.

Cause investigation	Collecting evidence
'Have oversight of all that is shared with the loss adjuster and attend all meetings, but don't be reticent in sharing information or cover anything up, as this will only serve to reduce trust.' Chris McTear, Insurance Manager, Tideway	'I asked the broker to meet with our Finance Director as quickly as possible after a loss. Their expert knowledge is useful in explaining what information is required and why (particularly for business interruption claims), and for putting the loss into the insurance context.' Airmic member
• Arrange an initial preparatory meeting with the site manager of the incident location. Clarify the situation and outline the expected questions from the loss adjuster/insurer and prepare responses • Attend all loss adjuster meetings and meetings with loss experts, e.g. risk engineers and cyber experts. • This will flag up any insurance problems before the insurer flags these, helping manage the expectations of the business • Be upfront about policy cover concerns. Transparent communications and developing trust are key • Observe all policy deadlines for when proof of loss must be provided • Avoid improper dissemination of views and information. • For example, the loss adjuster is acting on behalf of the insurer, so respond swiftly to all information requests but don't make statements to them that you wouldn't make to the insurer • Take advantage of your access to legal advice. The insurer is likely to send communications prepared by a lawyer, so have your own legal teams review these and your response • Ask legal and procurement teams to review relevant contracts and identify where causation can be apportioned to third parties • Explain the acceptance of liability process to the Board, as this will take longer than they expect	• Develop a timeline of information requirements with the insurer representatives and how this information should be presented • Develop a non-disclosure agreement with experts such as forensic accountants early, if not before loss, so that information can be viewed quickly • Outline the resources needed to prepare the claim and evidence the loss for the entire period, and have this signed off at the most senior level as soon as possible • Establish a dedicated online claims resource to gather information and maintain a claims project. This should archive documents to prove the loss and log all communications with the insurer's representatives • Engage the finance director and bring them to the first meeting with the business interruption adjuster / forensic accountants • Ring-fence all costs relating to the claim in a separate account and, if possible, share this electronically with the insurer's representatives, e.g. the adjusters and forensic accountants

‘Insurers and loss adjusters can request huge checklists of information as default. The insurance manager should identify those that relate directly to the specific circumstances of their loss. If you are seen to proactively manage the claim, you are in a better positon to push back on providing unnecessary information.’

Robert Lewis, Claims Leader for the Risk Management Practice, Marsh

‘Some losses will lead to investigations by regulators which may take precedence to the claim investigation. If there have been injuries or fatalities the Health and Safety Executive may take action. The investigation should be set up on a legally privileged basis and handled in a way so that the results of that investigation can be handled in a controlled way with the HSE and in subsequent litigation. It is important to get legal advice on this as soon as the loss occurs.’

Alexander Oddy, Partner, Herbert Smith Freehills LP

Reservation of rights

Whilst an insurer is investigating a claim or policy defence, it may issue a Reservation of Rights (RoR) in relation to coverage, preserving its ability to assert policy defences without an insured asserting that, through an insurer's actions in investigating the claim, it has waived a defence that may have been available. RoRs are frequently imprecise and insurance managers should:

- Clarify whether a general RoR has been issued or one specific to identified issues under investigation
- Engage their lawyer/legal team to manage the communications regarding the RoR and press for removal of the RoR when investigations are complete
- Comply with all policy terms whilst the RoR is in place.

Case study - Manpower

After an office building collapse, Manpower had difficulty evidencing its BI loss. A court initially granted a motion by the insurer to exclude the testimony of Manpower's expert witness on BI, as they were found not to have used reliable methods of calculation when determining the projected business revenues affected by the incident.

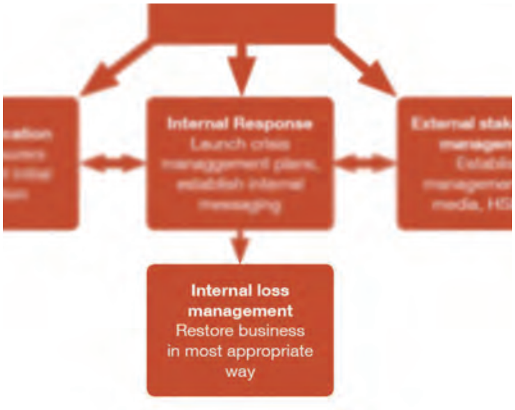
The expert had used a growth rate of 7.76% to project total revenues, which was viewed as not representative of the insured's historical performance. An appellate court found the criticism of the expert to be too harsh and they were eventually reinstated for presentation and cross-examination at trial. This demonstrates that business performance continues to be a subject of debate and differing approaches when calculating BI losses. Insurers and insureds are likely to have differing opinions. Insurance managers must work very closely with their brokers and their internal finance to evidence this element of the loss in a clear and well-documented manner.

Adapted from 'Misadventures in business interruption (BI) insurance, cautionary tales from real disputed claims, Marsh, 2015

Stage 3b Internal loss management

On day one of a loss, the property damage element will have occurred, but insurance managers can be actively involved in decisions on how to restore the business affected by the incident and reduce the business interruption element of the claim. Mature and flexible business interruption plans that guarantee the following are essential

1. Customer expectations are managed and satisfied
2. Steps are taken to speed up the process of restoring damaged property where possible
3. Business operations are supported where possible



> 'Businesses can take smart decisions to reduce the impact of the loss. We encourage insureds to avoid the 'do nothing' scenario as there are always ways to influence the 'standard' timeline and business continuity opportunities outside the original plan to assist in the recovery process.'
>
> Terri Adams, Senior Manager, FAS Global, Cunningham Lindsey

- Don't be restricted by fixed business continuity plans. Depending on the loss, the business continuity plan and the business's normal way of working may need to change
- Identify what functions and processes of the business can be protected and prioritised and amend plans accordingly
- Discuss alternative options to simply repairing and rebuilding with the broker: rebuilding elsewhere, purchasing a competitor, using subcontractors, paying incentives to speed up process timelines, e.g. reducing tender processes, may significantly reduce the claims period
- Engage senior management early. Asset management, legal, and operations will need to validate decisions. Require commercial teams to consult the insurance team before taking any remediation decision
- Ensure that the loss adjuster has been present for all remediation decisions, to ensure plans are agreed with the insurers

Case study – Cunningham Lindsey working with a Tile manufacturer

A severe storm left a Korean tile manufacturer's production plant badly damaged. After the incident, it was established that of the four tile types produced at the plant only one was unique to the manufacturing processes available at the damaged facility.

The insured had two immediate options regarding the three non-exclusive tiles

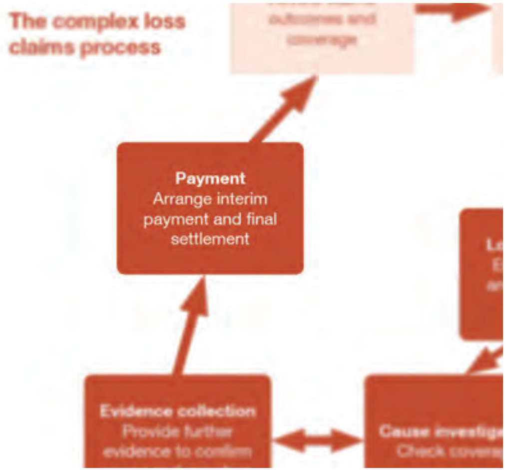
1. **Modify the layout of other group facilities to produce the three tiles, or**
2. **Source these tiles from competitors.**

Although there were greater logistical challenges with the modification of their own premises it was assessed to be likely to be more economical than external sub-contracting with the added benefit of avoiding the risk of giving commercial rivals a better understanding of the insured's business and intellectual property.

With this alternative operational plan in place for three of the tile types, a focused effort could then be placed on reinstating the damaged production line for the fourth tile type. This concentrated effort meant that this line was restored within weeks rather than the months initially estimated.

This thoughtful mitigation strategy allowed the insured to maintain market share, and the impact of the incident was much lower than first anticipated.

Stage 4 Payment



Agreeing the quantum of a large claim is rarely without difficulty. The insurance manager will face a further difficulty as the rest of their business will expect payment from insurers to happen quickly. This pressure can be increased at certain periods, for example, when year-end reports need to be produced but final settlement hasn't been made. The insurance manager will need to communicate effectively, evidencing the claim and facilitating payments, whilst managing the expectations of the business.

'Online sharing of claims-related payments and 'approval' systems reduce the claims timelines. After an invoice is uploaded the loss adjuster can sign off on cause, the forensic accountant sign off on value and the insurer can approve for payment. The monthly claims meetings can then be dedicated to queries or disputes, which is a much greater use of all our time.'

Keith Tuffin, Partner, RGL Forensics

'Disputes over quantum can be largely related to disputed periods of loss or unrealistic expectations of future growth. For major disputes I have found bringing all parties from both sides together to present their case face-to-face useful. Providing both sides with reasonable airtime on a neutral ground made discussions far easier.'

Keith Tuffin, Partner, RGL Forensics

- Establish the information needed for the insurer to make a reserve estimate and make a first payment on account immediately. This can be as simple as monthly management accounts, annual budget, weekly sales etc.
- Ask the accounts team to develop a 'loss' cash flow timeline highlighting when crtical payments are required
- Ask the insurer claims team how long payment will take between sign-off and reaching the account. Work backwards in the cash flow statement so that money can reach the account when needed
- Aim to take advantage of negotiation and settlement tools such as Alternative Dispute Resolution (mediation), before allowing the claim to 'go legal' in the sense of commencing litigation (or arbitration) and incurring additional costs
- Be sure in negotiations to agree and record whether discussions are taking place on an open basis (so they form part of the formal record of the claim) or on a 'without prejudice' basis so that possible compromises can be explored safely without the discussions being referred to in a later formal dispute resolution process
- Hold regular small meetings with the forensic accounts, adjusters, insurers, brokers etc to identify possible hurdles early on and iron out smaller issues
- Try to keep cash neutral when receiving payment to avoid being in debt or spending excessively

Case study – Network Rail

In 2013, severe storms caused major damage to much of the network rail infrastructure across the South East and West Coast. This included storm damage to embankments and tracks, subsidence of embankments across the network and flooding of tracks.

Network Rail worked with the 40 claims professionals across the loss adjuster, broker and insurers via an online ‘workable tracker’ document. The tracker mapped out each incident and was used to confirm coverage on loss amounts, estimate settlement figures on a weekly basis and identify outstanding documentation needed to settle each incident. This avoided the need for lengthy adjuster reporting, allowing the focus to remain on activities and actions for each party.

The tracker covered more than 1,000 incidents, and financial settlement was achieved within 12 months due to the open communication provided via the tracker.

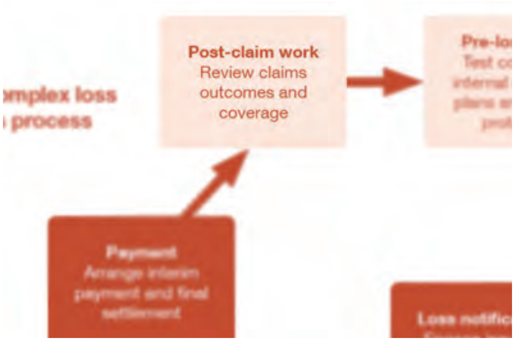
Disputes

When a claim (or part of it) is declined, it is important that the insurance manager takes careful and immediate actions:

1. If the policy is avoided for material non-disclosure or misrepresentation, or cover modified following a breach of the duty of fair presentation, or cover is terminated or suspended following a breach of warranty, contact the broker as a matter of urgency to discuss putting in place contingent cover.
2. If the declinature is for any reasons, including loss not covered by the insuring clause, application of an exclusion, material non-disclosure/breach of the duty of fair presentation, breach of any term including warranties or a condition precedent to liability, seek legal advice on the policy issues raised. This will be particularly important if the claim is on a policy to which the Insurance Act 2015 applies where novel issues may arise (such as the proper application of section 11 of the Act to prevent insurers relying on breaches of some policy terms).
3. Continue to comply with policy terms, including payment of premium, particularly where the avoidance is being challenged
4. Continue to consult with the insurers where the policy grants them the right to approve or control actions such as incurring defence costs, making admissions of liability or the conduct of the defence of claims.

Stage 5 Lessons learned (post-claim work)

Learning from losses, near-misses and incidents ‘closes the claims loop’. On conclusion of the claim, businesses should review the loss in terms of the business impact. They should review the adequacy of cover and the performances of the claims actors, the internal response plans and claims management processes, capturing the lessons learned.



‘PDBI claims can take time to settle, draining business resources. Businesses will be keen to move on after final settlement however, there is great value in

bringing the pre-loss scenario team back together. We are encouraging and supporting more of our clients to do this.’

James Nicholson, Head of Global Corporate UK Claims, Zurich

- Review the actual loss against the relevant scenario and highlight differences
- Record and implement relevant risk management learnings
- Consider learnings that affect the placement process, including coverage clarity and any additional disclosure requirements
- Identify challenges that occurred during the claims-handling process and amend the claims protocols or the providers named on the policy
- Ensure that any lessons learned exercise is properly coordinated with the conduct of any third party claims/litigation arising from the loss, so that non-privileged documents are not generated inadvertently.

Notes

Notes

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