

Fire Insurance – Fraud

An Adjuster's perspective

Paul May

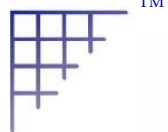
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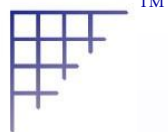
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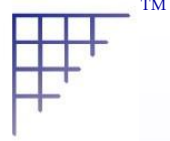
Croydon Insurance Institute

10th February 2005

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Fundamental Questions

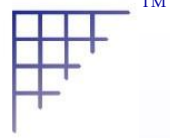
- Is the loss covered by the policy?
- If yes, what should be the correct amount payable to the Insured?
- Can the amount paid be recovered from another party?



Team Co-ordinator

Increasingly the adjuster is asked to co-ordinate a team of experts

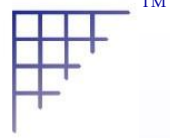
- » Forensic Investigation
- » Legal Advice
- » Forensic Accountants
- » Investigators



Cause of the Fire

- Deliberate ignition
- Electrical appliances and installations
- Hot works
- Smokers
- Mechanical
- Unknown

It is difficult and expensive to be absolutely certain of the cause.

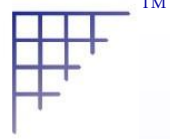


Deliberate Ignition

Covered unless wilful act or connivance of the Insured.

“Looking at it in perspective there really is no one else who could have started this fire except somebody acting on behalf of the Insured”

S&M Carpets v Cornhill 1982



How much arson is fraudulent?

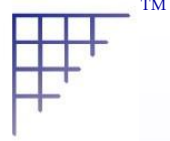
- Guesstimate is 20%
- Therefore non-fraudulent arson occurs in 80% of cases
- Heavy responsibility on Insurers and Adjusters to avoid “penalising” genuine claimants.



Could Underwriters do more?

More could be done at the underwriting stage such as:

- Proposal form
- Risk survey
- Business plan
- Inter-dependencies analysis



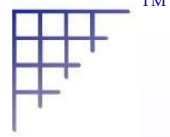
Cause investigation – Forensic Scientist

- What was the most likely cause of the fire?
- Was the fire deliberately set?
- Is there a possible recovery against another party?
- Are there risk improvement lessons to be learned?



Cause investigation – Fraudulent Arson?

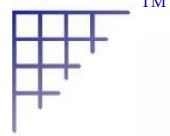
- Was the most likely cause deliberate?
- On the balance of probabilities, was it the Insured's act or connivance that caused the fire?
- The forensic scientist should not be left to answer the second question on his own?



Onus of proof

“Insurer to show that on balance of probabilities the fire was caused or connived at by the Insured.”

Slattery v Mance 1962

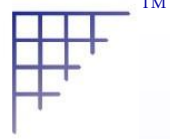


Onus of proof

“Most people would say that where there is a serious allegation such as arson there must be a very high degree of proof”

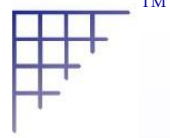
Lord Denning

Hornal v Neuberger Products 1956



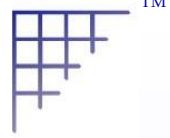
Cause investigation - team approach

- Forensic Scientist: Most likely cause
- Solicitor: Legal privilege
- Accountant: Business fundamentals
- Adjuster: Enabling investigation whilst delivering claims service



Fraud

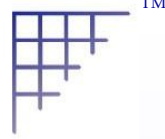
- By starting the fire
- By seeking to overly recover from a non-deliberate fire
- Information gathering



Information gathering

Information needs to be obtained as soon as possible from many parties including:

- Customers of the Insured
- Fire brigade
- Forensic accountant
- Forensic scientist
- Health and safety inspectorate
- Insured
- Insured's Accountant
- Insured's Broker
- Insurer
- Landlord
- Police
- Representative from bankers
- Shareholders
- Solicitors
- Suppliers to the Insured
- Tenants
- Third parties and their Insurers and Adjusters
- Utilities
- VAT Inspector



Fraud – Decision to deny coverage

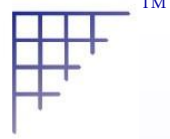
PRIVATE JUSTICE?

“if a claim is judged to be dishonest it will be resisted, though doing so is difficult because of the circumstantial nature of the evidence and the reluctance of both the parties to go to civil trial.

It is this which accounts for the war of position in which the parties engage, both attempting to wear the other down”.

Clarke M 1996

Heavy responsibility on Insurers to avoid penalising the 80% of genuine claimants that have suffered an arson fire.



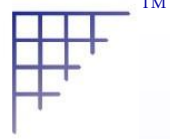
Fraud - Motive

- Policy allows “trawling rights” (more rights than police)
- Re-construction of events can be helped with information from:
 - Alarm devices and circuitry
 - Clocks, flexitime/clock card systems
 - Vehicle tachographs
 - Premises and mobile telephone call sheets
 - Electrical wiring and fuses
 - Memory chips in alarm and other control panels
 - Debris and partly damaged property
 - Fire brigade, police and central station records
 - CCTV footage
 - Other sources

Fraud - Motive

Insufficient attention paid to:

- Company strategy
- Board meeting minutes
- Analysis of customer relationships



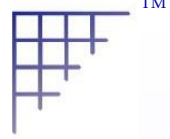
Fraud - Overstatement

- Perception that Insurers will cut down the claim
- Compound effect of exaggeration within a business
- Early agreement of claim format helps the innocent overstater



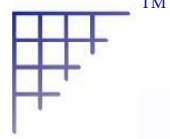
Fraud – Business Information

- Early request for comprehensive information rather than drip feed requests over a period of time.
- Early requests assist adjustment as well as fraud investigation.



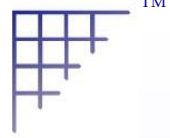
Fraud - Useful information

- Audited accounts
- Auditor’s reports and correspondence
- Bank statements
- Board meeting minutes
- Budgets
- Bank debentures and guarantees
- Cash flow forecasts
- Company register
- Share holder background
- Creditors with aged analysis
- Cashbook
- Correspondence with authorities over corporation tax, PAYE and VAT
- Cheque book counterfoils
- Debtors with aged analysis
- Paying-in book counterfoils
- Payroll summaries and records
- Stock check papers



Claims management by Insurer

- The policy holder is the Insurer's customer
- Delegation not abdication
- Clear timetable with milestones
- Clear brief to each team member
- Clear internal decision process
- Resist post-loss underwriting!



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An Adjusters perspective

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Chairman

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