



Life of a Fire Claim from Start to Finish...and beyond

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Concordia Consultancy South Asia, Colombo

SLII CPD Seminar

23rd October 2014

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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?

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Team Co-ordinator


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

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

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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.

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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

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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.

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Could Underwriters do more?

More could be done at the underwriting stage such as:

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

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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?

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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?

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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

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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

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Cause investigation - team approach

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

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Fraud

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

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First Site Visit

- Nervousness
- Fear of future
- Disorganisation

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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

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Fraud - Motive

Insufficient attention paid to:

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

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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

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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.

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Fraud - Useful information

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

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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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....and beyond to Recovery

- recovery starts on Day 1
- separate recovery report
- involve all targets (and their insurers).

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....and beyond to Risk Improvement

- share cause info
- share spread info
- involve all in post-event de-brief

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