



QBE Business Insurance

PROPERTY MATTERS

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QBE

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Introduction

A warm welcome to our new publication, Property Matters...

Prepared by Tim Hayward (Technical Claims Manager, UK Property Claims), we take a look at topical issues for the commercial property insurance industry. With the aim of communicating sector updates, we will look at issues with a claims-bias, but will consider the interplay and impact for our customers, and with regard to our underwriting and risk management colleagues.

The monthly communication will focus on key industry developments, relevant reform and legal case law, as well as taking a look at what's on the horizon and emerging risks. The last 12 months have presented a number of significant challenges for UK insurers, including Solvency II, FCA Thematic reviews (most notably for the SME sector), the forthcoming introduction of the Insurance Act and widespread flooding. These challenges are not limited to personal lines or commercial insurers, claims departments or underwriters, but as with all challenges, the key to success is the strength of the response. The next 12 months are set to be equally challenging for insurers, with the outcome of the Brexit referendum and coming to terms with the introduction of the most significant insurance reform since the Marine Insurance Act 1906. We will take a closer look at these, and other, challenges in the coming months.

In this first edition, we focus on the recent UK floods and consider the extent of the damage, the role of insurers, the longer term effects and where any lessons can be learnt. The introduction of Flood Re has kept flood-risk in the news, but for commercial insurers there remain a number of questions regarding the government's role, flood defences, as well as embracing flood resistance and resilient action. The sheer extent and cost of the damage, highlights the necessity for all stakeholders to identify opportunities and implement any improvements, before we experience a repeat of the flooding.

Undoubtedly, the flooding caused by Desmond, Eva and Frank, presented a huge challenge for everyone involved, but that allowed us to stand-up and respond when our customers needed us most. The surge of claims demanded significant and immediate resource, at each stage of the claims process, to ensure appropriate support was provided and most importantly, that businesses could get back up and running at the earliest opportunity.

We conclude this month's edition with a look at riot compensation, following the introduction of the Riot Compensation Act 2016 and the Supreme Court judgment in *Mitsui Sumitomo Insurance Co (Europe) Ltd v The Mayor's Office for Policing and Crime*. Nearly 5 years after the 2011 riots, we have reached a settled position, both with regard to claims flowing directly from those riots and any future rioting.

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Rising to the challenge... dealing with the claims

The very nature of flood claims means that insurers' claims models need to be well prepared, so they are able to react with short notice, in numerous geographical locations and with the onset of damage usually underway.

We will look at flood resistance and resilience later, but once flooding started, our primary concern was to identify, adjust and pay valid claims promptly. As a key part of that process, QBE utilise the services of Crawford & Company, and we asked them to capture some of their 'frontline' experiences.

"The trio of storms Desmond, Eva and Frank hit the UK hard through December 2015/ January 2016 and although there were three declared storms, the period of flooding lasted for approaching six weeks at a challenging time for policyholders. The sheer volume of claims was a challenge to the industry with some properties having been flooded more than once in this period.

Flood claims are one of the most complex types of claim Crawford has to manage and these can take a considerable amount of time to conclude depending on the severity and type of the flooding together with the construction of the building. The various types of flooding from tidal surge to rising ground water and rivers bursting their banks will affect properties in differing ways and the length of time that water remains in the property will affect the drying/reinstatement process.

The weather was largely predicted in advance so Crawford was able to take measures including extending the working hours of our Service Centres, moving adjusters to the anticipated affected areas in advance and expanding the resource working in our ClaimsAlert® centre in Glasgow which provides out of hours services to our clients. Visits were undertaken by our adjusters throughout the Christmas/New Year holiday period and across all weekends with numerous adjusters working away from their normal home for weeks at a time.

All initial actions are focused on the needs of individual customers and this can extend to agreeing relatively minor actions on low value claims to looking to get an adjuster to site as quickly as possible so we can ensure that appropriate mitigation activities are undertaken to ensure that business interruption claims are minimised. Access to some of the worst affected areas can often be an issue. With the agreement of QBE we have agreed a number of flood focused claim and payment philosophies aimed at reducing the claim lifecycle, managing cash flow for affected policyholders and ensuring that repairs are undertaken promptly.

The surge of claims has required teamwork from every element of the Crawford UK network. Crawford Surveying Services have been out in force throughout the surge handling period and our Contractor Connection service is experiencing an increased workload. As we move through the repair process there is on-going focus on the provision of flood resilient repairs as part of the repair programme.

Delivery in a surge is effectively an adjuster's moment of truth. We are part of the way through but there is still a huge amount of work to do as we look to support policyholders affected by storms Desmond, Eva and Frank.

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As a trusted business partner, we worked closely with Crawford & Company to ensure a positive claims outcome for our policyholders. We recognised the necessity for QBE to take the lead, but to maximise the outcome, we coordinated a multifaceted approach and drew upon the skills and resource available to a leading specialist global insurer. Success thus far has been reflected in the accuracy of 'Day 1' reserves, which has allowed early interim payments and prompt settlements. Our claims handling experience has taught us that receipt of early interim payments is vital to business continuity and can really make the difference between survival and failure.

QBE's response to the flood claims has been recognised with the nomination of Richard Hart (Senior Claims Adjuster, Leeds) as an Unsung Hero at the British Insurance Awards 2016.

"Richard is successful because he focuses on the policyholders and he understands that meeting them is important, looking them in the eye is important and admitting liability quickly is important. He is always looking for ways to make interim payments, he's always looking for ways to accelerate payment of the claim and never simply allows a situation to drag on while a policyholder is forced to wait."

The hard work continues, but at the same time, it is fundamentally important for all insurers to look carefully at how they responded, consider and identify what lessons can be learnt, for themselves, but also for their customers (policyholders, brokers, suppliers, contractors etc.). It seems inevitable that the UK will experience similar flooding in the future and each stakeholder has a role to play in recognising where lessons can be learnt, and minimising disruption, following the devastating damage suffered in the recent flooding.

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Learning to Live with Water... Flood resistance and resilience

The fear of repeat flooding, unsuccessful flood defences and significant property damage, have all encouraged debate, with the knock-on effect of an uptake in the implementation of positive steps to maximise flood resistance and resilience. In their absence, an underprepared business can suffer preventable damage and avoidable expense, which could threaten their ability to continue trading.

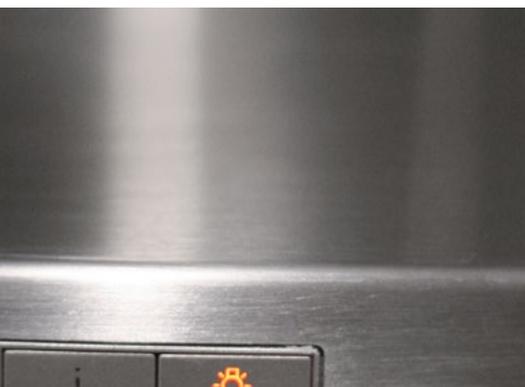
Businesses that operate in areas of flood risk can take a number of practical measures to protect themselves, either in the hope of keeping floodwater out of important buildings and/or limiting what gets damaged if water does get in. The full range of flood resistance and resilience steps can include simple, practical steps, such as storing business-critical equipment above ground-level, to permanent building or landscape modifications. The key is that businesses are aware of what's available and can act now, as part of developing a flood response plan.

The government (Department for Business Innovation & Skills) has introduced a number of initiatives to provide financial help householders and businesses (SMEs only), which are in addition to any insurance pay-out or repairs. Each local authority is coordinating their own schemes and details can be found on their individual websites (for example www.southlakeland.gov.uk/flooding-help-and-advice/grants) or direct from the government (www.gov.uk/guidance/flood-recovery-households-and-businesses), which also provides useful information about how to apply and who to contact.

Details of the grants and schemes:

1. Business Recovery Grants of up to £2500 per business. They are available to aid the recovery of your business and are dependant on turnover and the number of employees. The grant can cover things like; specialist expertise (business recovery), marketing and capital expenditure. The application form should be obtained from the council and sent as soon as possible, although we are unaware of a cut-off date.
2. Business Rates relief for 3 months. They will be suspended for affected businesses and the application is included, along with the Business Recovery Grant.
3. Flood Resilience-Resistance Grant of up to £5000 per business. The grant is available for property owners to help protect buildings against future flooding and is intended to fund measures which improve the property's resilience or resistance to flooding. Businesses are being asked to arrange a professional survey (refundable up to £500, even if the surveyor reports nothing can be done) and 'competitive' quotes for the work. The report and quotes are then submitted with the application form (**deadline for the grant application is 30 June 2016**). Importantly, the grant is over and above repairs that are covered by insurance.





QBE has worked with a number of brokers and insureds to facilitate the application process and we are happy to provide further assistance.

Flood resilience measures allow the property to flood, but the materials used for interior construction means they are not damaged. So once the flood water recedes, there is no need for a major drying-out process or refurbishment – a thorough clean-up will restore the property and prevent any lasting damage. The structure of the building is protected, with the added benefit of accelerated drying and cleaning.

Examples include:

1. Airbrick cover
2. Non-return valves
3. Water compatible walls & floors
4. Hardwood doors
5. Stainless steel kitchen units
6. Enamelled radiators

Whilst the initial resilient repair costs are higher than transitional methods (on average 34%, Defra), subsequent post-flood repairs costs can be reduced by as much as 73%.

Flood resistance is split between temporary and permanent products – temporary resistance will need to be deployed prior to the arrival of the flood, whereas permanent will be in situ. To be successful they must be used at the right time and maintained correctly, as well as prior structural assessment to withstand water pressure. These steps can be effective, but obviously come at a cost and an assessment of the level of protection afforded is vital.

Those who live and work in a flood-risk-area will still be coming to terms with the recent floods, but it seems clear that many will have to learn to live with the prospect of future flooding. Those who have an effective plan to deal with flooding will ultimately reduce their cost in the long-term. Managing the risk of flooding is no different to other risks a business faces in their day-to-day operation, and properly considered planning will safeguard their business-integrity.

Prime Minister, David Cameron, has recently confirmed that the government is considering the possibility of an insurance scheme similar to Flood Re, for SMEs. Flood Re is now live and is intended to provide private households living in flood risk areas with better access to affordable flood insurance. Its aim is to enable insurers to offer competitive premiums and is estimated to help some 350,000 households.

A scheme for SMEs was first mooted in the immediate aftermath of the flooding and the government will correctly consider the issue as part of their broader response. Any consultation will need to carefully investigate any perceived shortcomings, and avoid any assumption that commercial insurers cannot respond to their customers' insurance requirements.



Drones... risk v reward

Drones are rarely out of the news at the moment. As this edition was being drafted, news came in of the British Airways passenger plane being hit by a drone, fortunately with no damage or casualties. This is not the first story of dangerous and irresponsible drone-usage and is unlikely to be the last. Drone-usage has been on the radar for insurers for a number of years, with questions around their regulation (now the Civil Aviation Authority) and insurance coverage, as well as exploring opportunities with pre and post-incident surveys. Drones are an excellent example of the multitude of challenges that fast-paced technology provides for all areas of industry, and in particular the insurance industry.

To counter some of the critics, properly licensed commercial drones were used to good effect in the immediate aftermath of the recent floods. Loss adjusters were able to gain contemporaneous footage of the worst hit areas that would have been inaccessible otherwise. Their use is not limited to flood damage and they have been used to provide a 'bird's eye view' of major losses.

Loss adjuster, Cunningham Lindsey, has been using professionally piloted drones since 2015 and are left with little doubt about their benefits and potential.

"The key advantage of using Unmanned Aerial Vehicle (UAV) is that there are no issues around access and safety. A UAV can be deployed at the scene of loss within 24 hours, anywhere in the UK. And, subject to airspace restrictions, they can be flown from any point, either close to the loss or from a safe distance if access is restricted. The footage can be streamed directly to the client, triggering fast decisions, which helped to minimise damage and reduce costs. When the floodwaters hit, we used UAV footage to identify the worst affected streets and pick out individual properties, as well as commercial major loss claims, as instructions were coming in from clients. This helped us plan our response and set realistic initial reserves, before our adjusters had gained access."

Neil Gibson, Cunningham Lindsey

The benefits of controlled drone-usage are clear and should encourage insurers to embrace technology, whilst supporting the obvious need for regulation, education and enforcement. According to the Civil Aviation Authority's website there are approximately 1500 commercial operators of drones in the UK and commercial operators must complete a training course and apply for a license.

The market for drones has increased exponentially, and unchecked, over the past three years, but the private sector has traditionally been a lesser player. Media coverage suggests that is where the greater risk lies and with the cost of UAVs coming down significantly, as technology in the sector is rapidly advancing, the result is that drones have become an accessible marketplace for all. We will continue to monitor drone-usage and work closely with our external suppliers to ensure suitable industry application and to pass on the benefits to our customers.



Legislation and Case Law

Out with the old and in with the new... The Supreme Court judgment in *Mitsui and the Riot Compensation Act 2016* receives Royal Assent.

Nearly 5 years after the August 2011 riots, the Riot Compensation Act (the Act) finally received Royal Assent on 23 March 2016. The Act will only apply to England & Wales and the provisions will come into effect on a date to be appointed by the Secretary of State in regulations which are yet to be released.

Following the 2011 riots, the compensation scheme provisions within the Riot (Damages) Act 1886 were highlighted as problematic for consumers and insurers. The use of archaic language, ambiguity and uncertainty around entitlements to compensation, made it clear that reform was overdue. The aim was to provide an Act which was transparent, fair, consumer-friendly and fit for modern day needs.

The introduction of the new Act is against the backdrop of the long-running case, *Mitsui Sumitomo Insurance Co (Europe) Ltd v The Mayor's Office for Policing and Crime*, which was determined with regard to the 1886 Act. The Supreme Court has recently handed down judgment following the insurer's claim arising from significant damage at the Sony Distribution Warehouse in Enfield. Following insurance pay-outs to the building owner and Sony (the majority occupier), claims under the Riot (Damages) Act 1886 were then presented to the police, by Sony's insurers

(and others). Losses totalled £60million once consequential losses (such as loss of rent and trading losses) had been taken into account.

The question for the Supreme Court was whether consequential losses were recoverable against the local police authority (in addition to physical property damage). The short answer is 'no' and thereby overturning the decision of the Court of Appeal. It was said that the 1886 Act sets out a self-contained statutory regime to provide compensation for property damaged in a riot and this is not the same as the police authority being placed into the shoes of the offenders under a strict duty to bear all of their liabilities. The result will be a relief for the police and their insurers.

The mere fact that the case made it as far as the Supreme Court for clarification of the 1886 Act, underlined the necessity for reform and the government has now responded with the introduction of the Riot Compensation Act 2016. Both acts establish an implied contract between the public (and their insurers) and the police, so if law and order is not maintained during a riot, the police will become liable to compensate the public. We now have a much better idea of what that will mean in the unfortunate event of further rioting.

So what is a riot? This is to be determined by reference to the Public Order Act 1986 - definition of a riot - Section 1(1) states:

"Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of riot."

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The full text of the Riot Compensation Act 2016 can be found at www.legislation.gov.uk/ukpga/2016/8/contents/enacted

It is not terribly long and the key points are:

1. It repeals the Riot (Damages) Act 1886
2. Claims for compensation can include property damaged, destroyed or stolen during a riot
3. Claims for compensation can be presented in respect of property not insured or not adequately insured, which includes the policy excess or difference from the insured value
4. Wider class of property damage to include motor vehicles (coincidentally, in 1886 the first petrol powered automobile the Benz Patent-Motorwagen was invented by Karl Benz)
5. A motor vehicle exemption for insurers' subrogated claims, unless stock in the trade of business
6. Continuation of an insurer's subrogated rights where they have settled a claim in respect of loss or damage to reclaim compensation paid
7. A £1m compensation cap per single claim
8. Provision for claims to be consolidated where a company has incurred losses in separate buildings on the same site or damage to a building and stock
9. Non-material consequential losses and personal injury are not recoverable, which includes loss of productivity, loss of profit, loss of income and loss of rent. There is allowance for the cost of requiring alternative accommodation, but that is not subrogated to insurers
10. The claim is made against the local policing body where the property was situated at the time of the riot (more relevant for vehicles)
11. Power to refuse claims where fraud is believed, on the balance of probabilities, and to refuse other claims by the same individual.

There are some details which still need to be decided upon, particularly with regard to the actual claims procedure and claim consolidation, and of course, the true test of the Act will be its response to future rioting. All will agree, it is to be hoped that sufficient time has elapsed and the new Act will need to be 'dusted off' when that happens. That maybe optimistic, but at the very least we should have a more effective, streamlined and clear mechanism to enable businesses and individuals to claim compensation following damages incurred during a riot.

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