

Insurance Disaster Response Teams Loss Adjusters & the Loss Assessment

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Overview

- The Adjuster’s role and what is the capacity to manage a large scale event?
- Strategies for preparing policy holders in advance
- Fraudulent claims
- Smoke and other contamination damage- what are the impacts?

The Adjuster’s Role

The role of the Loss Adjuster is to impartially interface between the Insurer and its Claimant in order to bring about a settlement that is fair to both sides and commensurate with the promise provided by the policy of insurance.

It follows that Loss Adjusters (whether they be independent or employees of the Insurer) are invariably involved whenever insured losses of a sizeable scale or complicated nature occur.

The Loss Adjuster is usually the first formal ‘face to face’ contact from the insurance industry encountered by the Claimant and needs to be equipped with a range of interpersonal skills in addition to pure technical ability.

These include tools to deal empathetically, to listen attentively, to advise prudently, to communicate with clarity throughout the assignment and, importantly, meet the Claimant’s reasonable expectations in terms of time lines and not to make promises that can’t be kept.

Although Adjusting resources in Australia are limited, insurance, being a global industry has international resources to call upon just as the local profession is called upon to assist overseas on a fairly regular basis (eg Hurricane Katrina, 2005 Asian Tsunami etc.).

Qualifications held by Adjusters include one or more of a wide range of disciplines typically including technical insurance qualifications, engineering, chemistry, commerce, electronic and trades. Chartered Loss Adjusters are members of a related Institute by qualification such as the Australian Institute of Chartered Loss Adjusters or the Chartered Institute of Loss Adjusters (UK).

Based on recent experience, my own estimation is that any event generating in excess of 20,000 serious or otherwise complicated claims will require off-shore assistance but this will depend on the nature of the event, location, severity of damage and degree of expediency involved (eg hail damage can generally be handled over a

longer time span than say cyclone or bushfire damage where there is greater displacement of the affected community).

The last significant 'fire' event involving a large number of claims was the Canberra Bushfires in January 2003. Approx. 400 insured residences were totally destroyed and there were numerous less serious claims. The local adjusting profession however quite comfortably accommodated the volume.

In putting losses by fire into perspective, the largest single recorded event were the 1983 Ash Wednesday fires in Victoria and South Australia which resulted in property damage (in 1983 terms) of \$138M (estimated 2,000 houses destroyed) & \$38M respectively¹ and collectively, the loss of 75 lives. This loss of life tally equates to approximately the 45th highest death toll from all disasters recorded in Australia behind epidemics, shipwrecks and heat waves.²

In looking at a single incident, the highest loss of life arose from the William Booth Memorial Hospital fire on 13 August 1966 in Melbourne when 30 perished.³

Generally speaking, most fire losses in Australia would be expected to be handled with local resources but depending on the specifics of the event in question it is comforting to know that back-up resources are available internationally.

Strategies for preparing policy holders in advance

Generally, as an observation, I consider it can be fairly stated that the Insurance Industry and Authorities in Australia have not been overly successful with preparing policyholders in advance.

There are a number of areas where prior knowledge coupled with appropriate action can result in a more beneficial outcome for the policyholder whether this is through maximising available insurance protection and consequently the reduction of uninsured loss or through the minimisation of damage.

There are attempts to achieve this through advertising focusing on the hazards of non insurance or underinsurance, media coverage and loss minimisation measures (eg hazard reduction training and implementation - in the case of bush fire).

Sadly, all too often the warnings are not heeded. Ironically however, immediately following an incident there is inevitably a flurry of interest from the public (insured or otherwise) and insurers in particular report significant increases in general interest pertaining to policy coverage and sums insured (including during the build up to a pending likely event).

¹ <http://www.insurancecouncil.com.au/Catastophe-Information/default.aspx>

² http://en.wikipedia.org/wiki/List_of_disasters_in_Australia_by_death_toll

³ http://en.wikipedia.org/wiki/List_of_disasters_in_Australia_by_death_toll

My experience suggests this apparent apathy is due to the perceived high cost of insurance, the product of the 'she'll be right, it won't happen to me' mentality or otherwise total ignorance of the effect of inflation over long held assets. Occasionally evidence arises of deliberate selection against the Insurer.

Over the years, situations have been encountered whereby assets have been insured only on the basis of outstanding liabilities (eg mortgage value) and one wonders whether greater interest from financiers would be beneficial. It is not so long ago in living memory that financiers insisted upon sighting a copy of the policy on an annual basis but this practice, generally speaking, appears to have disappeared.

The Insurance Council of Australia (ICA) has recently (March 2007) published a brochure 'Tips on General Insurance – Preparedness and Recovery.'⁴

Topics covered in this brochure include:

- Temporary repairs and importance of not conducting major repairs prior to contacting Insurer.
- Generally it is appropriate to effect clean-up but not to dispose of damaged items
- Outlining of benefits such as Removal of Debris, Extra Costs of Reinstatement, Temporary Accommodation etc.

The ICA estimates that in Australia there are approximately 1.8 millions homes that do not have any form of home or contents insurance. This equates to a staggering 23% of the overall total and of the 77% remaining, a significant proportion are underinsured in one form or another.

These are staggering statistics given the propensity for Australians to be affected by catastrophes be they bushfire or weather related and the associated widespread publicity (incorporating graphic imagery) which accompanies them.

The Fire Scene

As previously discussed, the Loss Adjuster has a multi-faceted role and I thought it would be appropriate to explain the procedures involved in a major fire adjustment. Frequently the information gathering process is conducted in conjunction with other professionals such as Forensic Scientists, Private Investigators, Fire Service, Police and Lawyers.

The sequence is generally as follows:

- Receipt of instructions
- Client contact
- Scene inspection and appraisal
- Liaising with Fire & Police officers on site
- Scene preservation and initial measures
- Interviews and enquiries
- Reporting

⁴ <http://www.insurancecouncil.com.au/Tips-on-General-Insurance-Preparedness-and-Recovery/default.aspx>

- Quantum determination
- Claim management /finalisation

Receipt of Instructions

Generally by telephone and often after hours. Usually only brief information available, sometimes even just a telephone number. Instructions during working hours tend to be more complete and often the initial advice contains vital policy information.

Client Contact

This occurs immediately and without being too intrusive I usually incorporate a few probing questions in order to glean just what is likely to be expected at the scene. Are Fire Services or Police still there? Is the building secure or open? Is the cause obvious? Are there any hazards (eg asbestos, toxic fumes, chemical pollution etc.)?

Depending upon the responses received this will provide the opportunity to save valuable time in mobilising further assistance such as a contractor to board up, engagement of forensic assistance etc.

A commitment is then provided to the Claimant regarding attendance and appropriate arrangements organised.

Scene inspection and appraisal

Following initial introductions, it is then my preferred practise to take time to familiarise myself with the exterior of the premises. Sometimes it may be necessary to seek permission to do so from the relevant authority, particularly if the scene remains a crime scene.

A few minutes taken walking around the building and viewing the exterior often pays dividends and is useful in appraising the demeanour of the Insured, the property and immediate neighbours. Often, the approximate point of origin of the fire can be determined from this visual inspection and often points such as possible secondary seats of fire or evidence of forced entry etc. emerge during this process.

Throughout this initial process there is often casual dialogue with Claimant and generally it is possible to glean pertinent information, either confirming or assisting to eliminate any suspicions that may exist.

Depending upon safety issues and any special precautions requiring implementation, an internal inspection is then undertaken to assist in determining further measures. By then an idea of a whole raft of issues requiring consideration will emerge such as:

- Seriousness of damage and extent of repairs necessary (if at all possible)
- Impact on business interruption (if commercial) and relocation needs
- Temporary Accommodation requirements (domestic)
- Extra costs of reinstatement issues

- Special circumstances (eg Heritage listing)
- Immediate measures required (eg progress payments, boarding up, demolition to make safe etc. etc.).

Liassing with Fire & Police officers on site

Useful information can often be obtained particularly regarding the circumstances of the call out and any particular safety issues involved. Determination of an issue such as how long the scene will be quarantined is vital for the Adjuster to schedule a work programme for the case and will also assist other professionals who may be involved.

Further more detailed information is always available from Fire Services and Police through the appropriate Freedom of Information procedures (although there is frequently a time lapse involved).

Scene preservation and initial measures

If there is any inkling of untoward circumstances or there is the possibility of potential recovery from another party then it is desirable for forensic involvement.

In some cases, the circumstances can be relatively quickly determined (eg eye witness account of a burning TV or welding taking place on premises) and the emphasis of the investigation then shifts towards recovery issues.

In many cases the circumstances are not obvious and still remain undetermined even after thorough scientific testing. There are cases with which I am familiar where the forensic evidence, even though inconclusive regarding the actual cause, turns out to be extremely valuable by eliminating other potential causes and thus the evidence supports other information obtained in building a general picture of what has likely transpired.

Other actions under this heading include the need to secure the premises both to preserve evidence and also minimise any health related exposures to visitors on site (both authorised and unauthorised).

Interviews and enquiries

The initial information established will determine the extent of further interviews and enquiries necessary.

Some cases will be relatively straightforward; others will be extremely complex and may involve meticulous attention to detail.

It is not possible to simply rely on the efforts of others such as Fire Service and Police investigators because often there are different interests involved. Undoubtedly their input is extremely valuable and in many cases, in my experience, their findings dovetail quite nicely.

However, in suspected fraud cases the onus of proof is quite different. In order to obtain a conviction the Police need to prove matters ‘beyond reasonable doubt’ whereas in a civil matter, the less onerous (but often difficult) measure of proof is ‘on the balance of probabilities.’

The actual investigation process can be conducted in a number of ways depending on the nature of the loss, the amount involved, and the requirements of the Insurer. Sometimes it involves others (eg Private Investigators); often the evidence obtained at initial attendance is so vital that it needs to be immediately captured in a recorded interview or hand written statement.

Enquiries with others are tailored to the nature of the incident and often include witnesses, neighbours, associates, ex partners, accounting and taxation records etc.

Reporting

The initial report (often issued within hours of first inspection) will usually be a brief précis of the loss providing the Insurer with a guide as to likely quantum and the circumstances as well as describing any unusual features (eg Heritage listing, contamination issues etc.).

If fraud is suspected or recovery involved then often reports will be issued to Legal Advisers in order to protect the ‘discovery process.’

A more detailed report incorporating suitable recommendations will be submitted once sufficient information is available to allow a decision to be reached on policy liability.

Thereafter progress reports will be issued at regular time intervals depending on the Insurer’s requirements and the Industry Code of Practice.⁵

Quantum determination

This component (along with policy response matters) forms the core of the overall adjustment.

The steps involved will vary according to the nature of the loss but for a building loss will generally be:

- Development of scope of works
- Determination of cost of repairs
- Application of policy provisions (eg average or co-insurance clause)
- Involvement of Valuers, Engineers & Architects as necessary
- Liaison with Local Authorities
- Supervising tender process
- Project management of reinstatement process

In regards to a Contents loss the process is similar although the parties will vary and may include specialist Asset Valuers etc.

⁵ <http://www.codeofpractice.com.au/>

Claim management /finalisation

Generally, the Adjuster remains involved throughout the process until such time as the claim is finalised.

The complexity of the claim will determine the time line involved.

The process will typically involve detailed recommendations to the Insurer regarding each and every payment necessary to bring the claim to conclusion.

Fraudulent Claims

It is difficult to precisely determine the percentage of fire claims that are fraudulent and I know of no reliable statistics.

Certainly many with which I have been involved over the years contain mysterious elements. One or two unanswered questions here, maybe a coincidence or two there soon add up to an uncomfortable degree of doubt.

I'm pleased to say that a number of cases persistent effort has resulted in success for the Insurer.

When I look back over some of the more interesting cases, tales of woe, deceit and tragedy emerge. I'm sure most experienced Adjusters have had similar experiences and to provide you with an appreciation of the diversity of our work I'll now briefly review a few cases.

Case 1

Features:

- Aging high maintenance house
- Low socio economic factors
- Marriage split
- House for sale – no interest
- Fire developed during period of temporary absence. Timing factors critical.

Motive and opportunity existed however no Police charges. Private forensic evidence supportive but contradictory to Police forensic findings. Case withdrawn mid way through trial as evidence became increasingly overwhelming.

Case 2

Features:

- Forensic inspection but inconclusive
- Fire developed during period of temporary absence
- Computer removed prior
- Recent overseas travel coupled with computer issue raised further suspicions

Motive in this case was obscure but opportunity certainly existed. During recorded interview, Claimant was requested to complete Insurer's claim form and advised of implications. Claim form never lodged despite a substantial sum at stake.

Case 3

Features:

- Marital distress
- Plastic bottles containing petrol suspended from rafters by strands of wool
- Further accelerant (kerosene) spread throughout the upper level.
- Fire set in entranceway.

Fire failed to propagate as result of oxygen starvation.
Claimant convicted of arson and claim declined.

Case 4

Features:

- Severe financial duress
- Substantial amount involved
- Loss occurred late PM
- Witness identified Claimant at scene
- Claimant unimpressive at interview and obviously being deceptive
- Forensic inconclusive as to cause but seemingly more than one seat

Claim was withheld. Claimant subsequently committed suicide.

Case 5

Features:

- Relationship breakdown
- Co-insured killed partner then torched house

Enquiries were limited given Police major crime involvement. Claim declined.

Contamination

Contamination in its varying forms poses a range of challenges for the Loss Adjuster. The Fire Services are of course the first to encounter the problem, usually at its most volatile. The Loss Adjuster's challenge is to mitigate the loss and work through the contamination issues within the constraints imposed by the policy of insurance.

The presence of contamination in whatever form requires careful consideration both in terms of management of the site and also for damage to Third Parties (where liability insurance is concerned)

The challenges are not new but there is in today's environment certainly a far greater awareness of the health and environmental implications that frequently results in early intervention by the authorities.

In addition to outright chemical contamination, we are now seeing issues in general claims arising from air quality.

Again, reference to recent experience is beneficial in considering the challenges.

Binary Industries

Binary Industries occupy a site at Narangba north of Brisbane where they manufactured a range of herbicides and pesticides. There was a serious fire in August 2005. The entire manufacturing complex (housed in two main buildings) was destroyed including substantial stocks of base chemicals and finished product.

The fire was one of the largest in recent history in Queensland and required considerable resources to firstly control and then to contain pollution emanating from the fire scene. Significant publicity ensued as well as outcry from the affected community.

The case is of interest because proceedings were issued against Binary by the Environment Protection Agency (EPA) who subsequently obtained a Court order relating to the clean up of the site.

Essentially, during the fire and immediately thereafter there was substantial run-off of chemicals and fire water. This contamination found its way to a nearby creek and immediate preventative measures were adopted by the EPA who constructed a bund. Subsequently, all contaminated matter was removed from the creek.

The matter is ongoing and the final clean up will be expensive. For example, on 31 January 2007 the EPA secured orders including default provisions that enable the State of Queensland to take action and recover funds should the owners fail to comply, including a requirement that the owners provide financial assurance to the State of up to \$2.5 million.⁶

The EPA has been issuing regular updates to assist in appeasing concerns by local residents and businesses affected.

At the time that we attended the scene approximately 10 hours after the fire, contaminated water continued to flow into the gutters and thence the stream.

In fact the presence of the contaminants in and around the site hindered the forensic investigation for approx. 2 weeks.

⁶ <http://www.epa.qld.gov.au/projects/media/?Release=1056>

Great care on and around site was necessary using protective clothing and masks because of uncertainty regarding the chemical concoctions present.

The general state of the scene post fire seriously inhibited the inspection process, not only by us but many others with interest including the Authorities involved.

Air Quality

Loss Adjusters, almost daily encounter situations where air quality is compromised by smoke. Much of the smoke in today's fires is toxic because of the complex chemistry of plastics used to manufacture everyday goods. Its residue has a typically oily texture that creates difficulties in removal and frequently, post cleaning, sealing and repainting is the only viable remedy. In many cases, relining is the most cost effective option.

While the testing of air quality following repairs is not common practice, we recently encountered a situation following a minor fire where a Claimant refused to accept the end result maintaining that it posed a threat to the occupants. The symptoms encountered by the occupants allegedly included coughing, skin irritation etc.

This was despite the fact that the house was located in close proximity of a freeway, an area where it would be expected that the air would be subject to hydrocarbon pollutants.

A medical report confirmed the allergic reaction and necessitated the relocation of the occupants during the further remedial process.

Air sampling, which identified a high level of fluorocarbons in the air, were subsequently removed to a satisfactory level through 'air scrubbing.'

The actual cause of the contamination was not determined.

Cases such as this are expected to increase in number in the future.

Conclusion

There are many challenges, which arise in dealing with fire loss however I consider that the Adjusting profession in Australia has the necessary knowledge, experience flexibility, and skills to respond to whatever demands are placed upon it, wherever that may be and under whatever circumstances. The skill sets necessary to produce the optimum outcome for our clients continue to be enhanced through training and education programmes designed to equip the profession to confront new challenges as they emerge.