

**Talk to The London Business Interruption Association  
(Tom Heward and Angus Tucker)**

**INTRODUCTION**

Business interruption offers a unique challenge to those of us who are entrusted with dealing with the variety of incidents that occur. Unlike most losses, where the incident occurs, the financial loss is suffered, and the incident is reported, on most BI losses the incident is often reported before the financial loss is suffered.

All sectors of business have to progress and move forward otherwise they end up going backwards. The purpose of our small contribution today is hopefully to promote some new thoughts in your minds or add weight to those thoughts that you may have previously held on how we might improve and move forward on the management of these claims, and at the same time mitigate the losses which occur to a greater extent than we do currently. Please forgive us if we over stated the points we are making to get our views across!

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When notified of a serious property / BI loss having occurred and you arrive on the scene that day, what is the loss value at that moment in time? For material damage it is possible to assess over a relatively short period, the value using a variety of techniques. For business interruption the loss. that loss on the first day is very small or sometimes non existent.

Over the days and weeks that follow, the material damage element of the loss will remain fairly static but the business interruption loss grows, sometimes very rapidly. How fast it grows, how long it continues and to what extent it eventually reaches is influenced by a number of factors, not least of which is the actions or lack of action by the policyholder and the insurer team.

The unique challenge for our industry is to mitigate the duration and extent of the business interruption loss which flows from that event. All too often the resources are concentrated on the material damage to the detriment of the BI loss mitigation.

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Why should that be? Possibly:

- ✓ Lack of expertise
- ✓ Lack of insurer pre loss action plan to manage the loss
- ✓ Fee limitations

Same loss - two different outcomes!!

**Scenario A**

Material damage	£ 3,000,000
Business interruption	£10,000,000
Fees	<u>£ 100,000</u>
Total cost of Claim	£13,100.000

**Scenario B**

Material damage	£3,000,000
Business interruption	£6,000,000
Fees	<u>£ 250,000</u>
Total cost of Claim	£9,250.000

**Which loss would you prefer to suffer or pay, - you choose!**

Is this realistic, I think it is and on some notable losses in the past it has been shown that the additional time spent by an experienced team concentrating on the loss mitigation aspect has paid back the additional fees incurred handsomely .

QUESTION? - Is the fear of spending money on fees getting in the way of the objective which is to mitigate the overall loss?

**PRE LOSS PLANNING -**

Why do insurers encourage or sometimes insist in many cases that commercial policyholders have a business continuity plan and then invariably appear to abandon them at the time of a major loss by placing most of the responsibility on policyholder with little or no experience of such matters to mitigate their loss?

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Are business continuity plans of any benefit in the mitigation and management of Business Interruption losses?

We believe that catastrophe, or pre loss planning for business is absolutely essential. Many business which have gone through the process of pre loss planning seriously have during that stage realised how vulnerable they are to a disaster not only within the environment that they control but also in areas where they have little influence such as suppliers and customers.

If you have two major customers to whom you are a component supplier and they have a serious incident, a significant part of your business could be in jeopardy as they just may not want your components for quite some time. In one moment your budgets and forecasts for the year are in tatters and possibly your business as well! Sadly looking for the unexpected is all part of continuity planning and trying to find ways reducing the impact on the business of the unexpected.

Business continuity planning has become very sophisticated with secure internet sites being used to provide a means of communication in the event of a disaster to pass essential information to staff and others.

Unfortunately an imaginary disaster is no substitute for the real thing. Plans are not always up to date, communication lines are often too long or unclear, but the mere fact that the business has thought about some of the many combination of issues that might arise, has hopefully made them more prepared.

Some of the things which are spawned from these plans are

- ✓ alternative 'warm' sites being available,
- ✓ dual sourcing arrangements,
- ✓ pre arranged sub contracting deals
- ✓ a buffer stock of finished goods
- ✓ flexible infrastructures between sites
- ✓ and many others.

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In larger organisations the Catastrophe response planning justifies the employment of a team with specific responsibilities to foresee the disaster, devise plans to lessen the impact and to implement the plans in the event of something occurring.

The police and public bodies have for sometime used the concept of GOLD / SILVER / BRONZE controls within a major incident plan or for categorising the scale of the appropriate response. Can we learn from this?

Within our industry we are used to dealing with disaster and the unexpected. We have the experience and expertise to make a difference. So how does our industry match the response we expect from policyholders?

Apart from the financial support to pay for the loss mitigation what other things do we do or could we do to enhance the loss mitigation process?

**CURRENT RESPONSE TO A LOSS**

**What currently happens following a medium to major size loss at a commercial location.**

Insurers and brokers are advised of the loss although initially the size and extent of loss is often a little vague.

Loss adjusters are appointed locally to attend site and assess the situation. Within the first 24 hours insurers require a preliminary indication of the extent of loss and an initial reserve.

Which individual actually gets appointed is a bit of a lottery. The loss could be anywhere, at anytime, and it is impossible to plan the availability of appropriate resources on day one.

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The size of the loss may dictate in some adjusting practices, a change of personnel or an enhancement of the adjusting team. In others this may not occur and the adjuster on site has to cope.

Insurers decide how their position can best be protected and often appoint forensic investigators, forensic accountants and possibly lawyers if the initial indications on cause point to a policy breach, possible fraud or a potential recovery from a third party.

The first hurdle which needs to be cleared quickly for the benefit of all concerned is 'POLICY LIABILITY'. Once that has been done the claim focus changes to measurement and mitigation of the loss.

QUESTION? - Who is responsible for ensuring that the business interruption loss is effectively mitigated??

Many businesses make quick decisions and organise their internal resources to tackle the short and medium term issues in a very impressive way. Others are not so proactive and wait to be instructed by insurers and their adjusters before committing to any meaningful expenditure or plan.

For most management teams this is a totally new experience and for many outside their comfort zone. What they badly need is the assurance of experienced help and assistance. They also need the assurance that the financial loss being incurred and the expenditure to which they are committing to mitigate that potential loss is being underwritten by their insurers.

Adjusters appointed team leader brings together the various elements of the claim which are covered by the instructing insurer. He / She also investigate the state of play on those elements of the damage which affect the businesses ability to trade normally which may be insured elsewhere possibly by other interests such as landlords.

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On a major loss, insurers often appoint forensic accountants to investigate the financial issues although from my experience their brief and reporting lines are often vague and sometimes non-existent.

Following the early flurry of activity a number of things start to occur:

- The adjusting team priorities are diverted to other losses or catastrophes.
- The management team become overburdened trying to deal with the demands of the loss and at the same time trying to do their 'day jobs' which is to run the business.
- Time lines start to lengthen in the critical paths to restoring the business.
- Initial reserves on the extent of the loss have to be revisited.
- A gap often appears between the policyholders expectations and the insurers reserve for the loss.
- Day to day control of the business interruption claim and the mitigation of the loss becomes blurred as the forensic accountants and loss adjusters deal with the issues which they believe are within their sphere of activity.

**QUESTION?** - Who is responsible for ensuring that the business interruption loss is effectively mitigated?? Is it the policyholder / loss adjuster / Forensic Accountant

There have been some commendable examples of adjuster and forensic accountants working in close harmony with a pro-active business to mitigate losses and save businesses from failure.

However on many losses insufficient time is spent in assisting policy holders to mitigate their losses and far too much is left to chance. Loss mitigation of business interruption losses is in the main totally unstructured with many businesses left not knowing what is happening.

In the worst example the management team of the policyholder think the business interruption policy only covers the loss of gross profit and are unaware of the immense flexibility of this cover to avoid or mitigate the loss.

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QUESTION- Can we effectively pass on all our experience and knowledge to mitigate these type of losses by a flurry of activity in the first few weeks and by adopting a monthly watching brief?

We can as an industry do better. We have the skills and experience as we deal with these things on a regular basis. Above all we have the financial incentive to mitigate the loss which is also a shared endeavour with the policyholder.

However a greater involvement costs money and the benefits are sometimes less measurable than showing a saving on professional fees.

**POSSIBLE ALTERNATIVE RESPONSE**

The basic concept of business interruption insurance is to provide protection to a business for the financial losses they may suffer to their turnover and profits as a result of a defined set of circumstances.

Thankfully I have never had to underwrite this type of risk but I have wondered why the focus has always been on location and type of business. There is little or no attention given to the size of the customer base or whether the policyholder is a tenant or owner occupier. I invite you to inspect the underwriting file of any commercial risk and tell me:

- ✓ Are they a tenant or an owner occupier?
- ✓ Who is the landlord and the insurer?
- ✓ Have you got contact details for the landlord out of hours?
- ✓ What is the term of the lease and are there any break clauses.
- ✓ How many customers do they have overall and what percentage of the turnover do the top three customers account for in turnover terms?
- ✓ Have they got a business continuity plan?
- ✓ Has the landlord got a business continuity plan?

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Why are the customer base issues so important? You insure two identical businesses, one with a thousand customers non of whom represented more than 5% of the turnover and a second business with only two customers. Both suffer a total material loss by fire, which one is likely to suffer the greatest business interruption loss and which one will it be easier to mitigate. Underwriters rarely ask the question.

I can understand why the questions are brief when pitching for the business of an SME. However if the pitch turns into a policy, the additional information could save time and money in the event of a major incident.

Business Continuity planning should be encouraged. I am sure Buncefield has brought it home to many firms how important it is to have a pre incident plan of action to work to especially when you are denied access to your premises to recover essential data. However the world is made up of an infinite variety of management personnel and how they react in the face of a sudden disaster can't be taken for granted.

Many policyholders who make decisions on their businesses every day, often abdicate that responsibility or defer making the decision in the event of a loss until someone confirms they will pay the cost.

Policyholders need support financially but also need assistance in other ways from people who understand this world beyond most peoples comfort zone and can offer the benefit of their experience. Such people are in the main loss adjusters and they do a very good job in the relatively short period of time they can devote to any single loss. Given more time they could also do better!!

I know there are exemptions to every rule, but I am absolutely convinced that if the right people  
with the right attitude  
with right focus on mitigation of the business interruption following a major loss

were not so constrained by the fee scale or overall time charge fee issues, a far greater saving could be made to the loss overall.

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I am in effect suggesting that on certain losses we appoint a project manager on a full or part time basis supported by a team on site who get things done and issues resolved quickly.

We expect policyholders to plan for these events but collectively, we being brokers, insurers, loss adjusters and forensic accountants , do little structured planning on how we will resource and deal with a medium to major incident.

There are degrees of loss and levels of mitigation which are feasible. However within days of the loss an assessment can be made as to the level of assistance required and the level of return which could result from an intense professional input.

How we categorise the response is something which could be considered pre loss. For example, why re invent the wheel. What if we followed the already established concept of GOLD / SILVER / BRONZE.

A major fire which prevented the business from trading to the extent of 75% or more for possibly six months plus might be categorised as a GOLD incident. An incident which partial interrupted the business for less than 50% and was unlikely to be greater than 6 months in duration might call for a BRONZE response.

So what might we as insurance business interruption experts bring to the party to mitigate this loss?

- ✓ Additional much needed resources
- ✓ Outsourcing
- ✓ Alternative premises
- ✓ Communication with customers and suppliers
- ✓ Buying in of partially completed items
- ✓ Temporary repairs and segregation of facilities.
- ✓ Financial support for the mitigation measures
- ✓ Regular news letters for customers and employees
- ✓ Retrospective discounts to reward loyal customers

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- ✓ Increase in advertising corporate entertaining.

What would the resources do?

- On site administration and daily liaison with the policyholders appointed team
- make on the spot decisions in response to daily live situations on site
- monitor and control the loss mitigation spend
- have overall financial control of the loss

Why is it necessary on all claims for the policyholder to prepare and support the claim before we consider it? If the resources of the policyholder are engaged on claim preparation without additional support, it is likely that something vital to the business is not being done. The loss mitigation process is likely to suffer.

So what is the shape of a GOLD response team? The shape of the response and location of the team may vary depending on the circumstances. However the responsibility and focus of the team remains the same.

*"They are responsible for identifying the needs of the business going forward and together with the management team they are responsible for making sure that nothing stands in the way of the mitigation of the loss."*

I would envisage on a major loss at a manufacturing company in the first few weeks a team consisting of:

**Project manage** probably a trained project leader or major loss adjuster. He / she would set the brief for the team, agree the lines of communications with the business, organise daily project meetings and agree objectives.

**Senior Forensic Accountant** - set about understanding the financial issues of the business, identify key areas, customers, cash flow going forward and eventually agree milestones with the business against which any financial decisions on the expenditure

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of ICW can be assessed as well as setting parameters for the measurement of the loss of turnover / gross profit.

**Senior adjuster / surveyor** to deal with the premises issues whether as the adjuster for the building insurers or as tenants representative in pushing forward the reinstatement of the facility and assessing alternatives if the lease arrangements permit. The fact that another adjuster is appointed by the landlords insurers does not mean that this aspect of the claim is no longer the Project Managers problem. On the contrary it is even more important that this aspect is progressed quickly and any delay factors are minimised by negotiation or financial incentive.

**Accounts executive** to set up the system of recording costs and expenditure associated with the claim which is in a form capable of independent audit at a later date if required. Assisting in the formulation of the various aspects of the claim.

**Engineers** and other specialists as required.

On cases which might attract a BRONZE classification the length of the intensive action on site might be short and the project manager may be able to take on a number of BRONZE losses at the same time with an assistant who will cover sickness and holidays and date clashes.

Can the policy also be made even more flexible than it already is at insurers discretion to assist the mitigation process even further?

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**Example:**

Buncefield was a challenge to the industry and the scale of the problem made the sourcing of suitable alternative accommodation very difficult.

One medium sized company had damage to external walls and a roof that was lifted but came down roughly in the same position. Landlords initial view was that the repairs could be carried out around the tenant without undue disruption. Tenants internal fit out including partitions and ceilings were damaged but repaired promptly.

The business continued to trade with only minor disruption to turnover and increase costs were small. However on closer inspection by the landlords consultants two months after the event the tenant was told they would have to move out to allow the roof to come off and be replaced. By this time any available premises were already let and the only option to allow the repairs to be completed within the 12 months indemnity period was to move some distance, Milton Keynes or further.

There were customer and staff issues to consider and the prospects for avoiding further loss of turnover were not good. In another 9 months time the availability of alternative accommodation locally would have been much easier but by then the 12 months indemnity limit would have expired.

What would you do in that situation if you were uninsured and the financial cost of the temporary move was not an issue? The answer would be that you would make the landlord wait until you found a premises locally. The indemnity period was driving this claim. It wasn't right for the policyholder and it was not in the best interest of insurers to move to remote alternative accommodation immediately.

By moving some distance immediately to allow the repairs to be carried out, the cost of the move would be higher and the issues of customer and staff retention would be critical. So what was the alternative.

Suspend / Pause the indemnity period by mutual agreement at that point and start it up again later when premises were available locally. That is what occurred. The indemnity period was suspended in May 2006 and restarted again when the company moved in December 2006 and returned in May 2007 to their repaired unit. No

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additional loss of turnover was incurred and the loss was adjusted within the original reserve.

I am sure some of you have come across others but the opportunity to flex the cover to benefit everyone is only available if you spot it at the time the issue arises. That will only occur if you are in daily contact with the claim on the ground.

**BENEFITS**

Insurers financial interest in the outcome of the loss is managed / controlled.

The added experience and assistance will be welcomed by most policyholders provided the Project Manager approaches the task sensitively.

The duration of the indemnity period required will in most cases be reduced.

The overall cost of a basket of business interruption claims including fees will be significantly less than the less pro active methods we currently adopt to save fees.

Opportunities to introduce into the loss less experienced staff to enable them to develop their skills for the future.

One final point! If investors committed £20 million to a business which was struggling do you think those investors would take a back seat and let the management team at that business get on with it themselves. Of course they wouldn't.

Before the investors committed that money they would have carried out due diligence and would have assessed the strengths and weaknesses of the management team.

Consider a major loss under a material damage / BI cover. £20 million loss is being underwritten, and this is the very first time you have encountered the business and its management team. Even more reason to be pro active to protect that investment and make sure the money is spent well.

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**CONCLUSION**

In this life you generally get what you pay for!

They also say you 'Reap what you sow!'

We have some very talented people in our industry with vast amounts of experience from which others can benefit. Let us think about ways of using these resources better and more intensively in the mitigation of loss.

We need more of these resources now and for the future, this may be one way of ensuring that we develop a mechanism to pass on that knowledge to others.

Please don't let the 'bean counters' get in the way of progress.

We would appreciate your input.

**Thank You**