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Outsourcing

Does outsourcing claims lead to lower service standards?

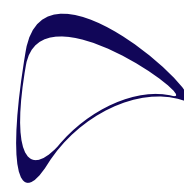
Farewell referral fees?

As new legislation takes effect referral fees for personal injury seem doomed



Fraud: who's winning?

As the fight against fraud is stepped up insurers fear that honest policyholders will be alienated



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Andrew Holt

Fraud can tarnish our shop window

It is often said that claims are the shop window of insurance, where the industry fulfils its promise to deliver on what the customer has purchased. But there is a dilemma here. It is that not all claims are genuine. Fraud is prevalent and insurers need to be on their guard in what is a major problem for the industry.

The ABI's annual release of fraud figures show the crime of fraud is rising. Its most recent statistics estimate the annual cost to the industry is around £1.6 bn – up from £1.5bn the previous year (page 6). But how can the industry deal with this without alienating the customer? It is an on-going problem that will never seemingly have a simple answer. And the worry of alienating the customer is one reason why some insurers often accept some fraud as part of the insurance process.

But if the claims process is about maintaining the reputation of an insurer and insurance, then

outsourcing has had a negative reputational impact. Outsourcing service levels have traditionally been well short of expectations when it comes to claims processing. And as is noted here (Page 11) reputations can be lost very quickly if the claims department isn't up to scratch.

And on disaster recovery, it seems that the lessons of Buncefield have not been learned (page 30). Businesses are still failing on the disaster recovery front.

But as Biba's Steve Foulsham notes, brokers have a major role to play (page 34). They can advise their SME clients about the importance of business interruption and disaster recovery, because it is only an extension of risk management and brokers are now advising on this all the time. So many brokers are clearly seeing the opportunities of solving businesses' problems. And that is what broking and insurance should be about.

introduction

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timestwo

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Insurers are under pressure to maintain effective anti-fraud procedures without alienating customers. **Caroline Jordan** asks if the war on fraud is being won?

Fraud: who's winning?

timestwo: Jul 2007 06

Tackling fraud without alienating customers is a tough one. On the one hand insurers want to be seen as paying claims promptly, on the other, they do not want to be seen as a soft touch. It is a difficult balancing act.

Each insurer has its own strategy when it comes to managing fraud. There is better sharing of data now and crucially, in the case of serious cases such as staged accident rings, these can be passed on to the Insurance Fraud Bureau (IFB).

However, there is no doubt that insurers are sharing fraud-busting techniques more effectively, largely through the ABI's anti-fraud committee and through claims managers generally being more prepared to pick up the phone and talk to each other.

But, it is crucial that the industry as a whole communicates to the public that insurance fraud is a crime and not somehow socially acceptable

Fraudsters can be anything from frankly daft or canny individuals to hardened criminals – but if a claim is suspicious, an insurer will need to undertake thorough investigations. It could be a claim is genuine, but hard questions may have to be asked.

To this extent, some consumer dissatisfaction is unavoidable. The industry came in for criticism when it first

started using lie detector technology – voice stress analysis – some years ago. But, this is not the only option.

Gabrielle Stewart, technical director of Absolute, says cognitive interviewing techniques can be a far better way of keeping customers on side. Her firm provides specialist outsource claims investigation services for insurers.

Her team is trained to listen and counsel claimants, encourage disclosure, examine language and behaviour traits and identify linguistic anomalies – but all in a warm and friendly manner.

“It is a much better experience if someone is interviewed in a friendly and professional manner. We can often find out what has happened quickly and in up to 75% of cases tell the insurer they can pay the claim with confidence,” says Stewart.

She says the problem with voice stress technology is that it only provides an indication of a problem – once this has been identified then it needs to be followed through.

She explains that specialists may well only need to be brought in for certain cases. “We would typically deal with theft cases – there is no point us questioning someone for a broken windscreen. We would also tell someone that we are there to validate their claim and we can brand ourselves on behalf of the insurer if required.”

An interesting move could be broker BDML using its parent company Capita's technology, Inverita. Normally voice stress analysis is used at the point of claim, but this would involve asking more questions at the underwriting stage – namely the point of claim.

Chief operating officer Mark Townsend says: “It is early days and we are just assessing this in areas like motor, but potentially getting more information early could lead to a better claims experience later on.”

Consumer education

Meanwhile, Stewart says she would favour more consumer education to prevent so much fraud occurring.

A wide scale advertising campaign proved effective in the Republic of Ireland and a similar venture was proposed for the UK.

However, this failed to materialise, and many voiced disappointment when the ABI said plans had been shelved. It later stated it would investigate working with the FSA on raising awareness – although details on this remain dusty to say the least.

It is understood that some smaller insurers were not happy about the likely costs of a major advertising campaign – or its effectiveness. This leaves the ABI's press team with considerable →





Brokers can be an important link in cracking fraud

Brokers often know their customers well and so could be able to provide vital information about potential fraudsters to insurers.

However, this is not an easy area. Brokers act on behalf of their clients and some may find the prospect of “grassing up” customers unacceptable.

But, if this is the attitude, Chris Hill, Norwich Union’s head of fraud, says that brokers need to wake up and smell the coffee. “One of the main aspects of regulation is to ensure there is no financial exploitation of a business for criminal purposes. Fraud is about managing risk and so brokers and insurers have a common interest. Since doing a good job is about knowing your customers, they can also be well placed to spot it.”

He adds that there can be an impact on profitability on a broker if there is high fraud leakage. “If they are on a profit share, then having fraudulent claims could be damaging. Likewise, fraud adds onto the cost of premiums, so managing it can reduce the upward pressure on premiums.”

And, he points out that wanting to do their best for their customers means tackling fraud. “It’s morally the right thing to do. We have offered some brokers training and plan to do more in the future.”

No one is saying brokers need to turn into sleuths, but Hill says they can be extremely helpful in “assisting with the validation process”. He says this can mean speeding up a claim for a genuine customer, but also giving details of where there could be a potential problem.

For example, this might be where there is a suspicious fire in a commercial building, but the owner has recently increased their sums insured and is known to have financial problems. “There are times when a claim does not stack up and we hope a broker would work with us if appropriate.”

It is known that trade body Biba would like to increase its members’ awareness.

Biba technical services officer Steve Foulsham comments: “We have been talking to the ABI and the IFB about the role brokers could play and hope to produce some guidance notes. I agree that more has to be done to educate consumers, beyond just reminding them of the cost of fraud. We need to get rid of the perception that insurers always try to reduce claims, and so sticking say an extra £200 on top is justified.”

He adds that insurers could do more to help brokers tackle fraud. “If a broker does have information they want to impart, they need a clear line of communication. Insurers should make sure they pass on details of their counter-fraud teams to brokers so they can contact them promptly without having to deal with an anonymous call centre, where the general claims team may not be the relevant people anyway.”

And, he concludes: “Fraud is an important issue but we must reiterate that the majority of claims are real and that the industry is committed to treating customers fairly.

A spokesman for the ABI, confirmed that ways in which brokers could assist with tackling fraud was a “workstream” and that progress on this should be announced by the end of the year.

‘We are taking on serious criminals and if we attract attention from the press then we meet one of our objectives’

John Beadle, IFB

→ responsibility, on behalf of its members, to get the message across.

The ABI’s annual release of fraud figures do generate good press coverage – and the latest show that crime rates are rising. Its most recent statistics estimate the annual cost to the industry is around £1.6bn – up from £1.5bn the previous year.

And, fraud also hit the mark for Experian, which provides anti-fraud IT solutions. Its research said more than a fifth of the population (21%) think that everyone exaggerates when making an insurance claim.

This also found that only a relatively small proportion (15%) would definitely report someone who they knew had made a fraudulent claim. But, in terms of punching way above

its weight for press coverage, it has to be hats off to the IFB.

In the build up to its launch last July, the IFB was cagey about speaking to the press and in even revealing where it would be based for fear of reprisals on its staff. Journalists may well have felt its aim was to tackle fraud behind closed doors.

Instead, the organisation has come out with guns blazing, hiring a PR agency and even, it is understood, taking national press journalists on sting operations. The subsequent press coverage has been excellent.

IFB chairman John Beadle says the press stuff can take up a considerable amount of time, meaning he has to juggle the day job – but he is not complaining. “We are taking on serious

criminals and if we attract attention from the press then we meet one of our objectives – fraudsters know we exist and we’re taking them on and securing prosecution.”

He says he was not expecting the “maelstrom of publicity” which has surrounded the IFB, but that he now welcomes it. “The FSA is pleased that criminals are more wary now that we’re around. And, the more successful we can be, then it puts the whole insurance industry in a positive light.”

Less focused

But, does this mean that tackling fraud is becoming polarised, meaning far more resources are going towards organised crime, while the opportunistic fraudster benefits from a less focused approach?

Beadle comments: “It makes sense for insurers to tackle opportunistic cases on an individual basis rather than through the IFB, but there is no doubt that they have come a long way.

“They are also benefiting from the Fraud Act, which provides a definition of the crime. They have a range of measures to tackle fraud. My feeling is that there is now more emphasis on training claims staff in this area. The insurers have stepped up to the plate in tackling all forms of fraud.”

The IFB is also now managing the Cheatline anti-fraud hotline. He says calls have gone up 140% since they began doing this and after a recent radio interview, he says response was tremendous. Perhaps the war against fraud is indeed slowly being won. **IT**

Heath Lambert assists with fraud conviction of policewoman

Broker Heath Lambert took part in a recent fraud case by giving evidence to secure a conviction for fraud against a policewoman.

PC Helen Helliwell appeared last week in Warwick Crown Court and was found guilty of obtaining a money transfer by deception.

She made the bogus claim in October 2005. She said she had been burgled and £6,281 worth of property – including a laptop com-

puter, jewellery and digital camera – had been stolen.

But when later questioned about the claim the 44-year-old, of South Green Drive, Stratford, suddenly “remembered” she did not own a laptop.

Helliwell was sentenced to nine months imprisonment, suspended for 18 months, and ordered to do 120 hours’ unpaid work.

She was also ordered to pay the

£2,132 prosecution costs and all of her own defence costs.

Suspicious were aroused when she told officers there was no need for them to make house-to-house inquiries because she had spoken to all her neighbours and none of them had seen anything suspicious.

But the broker became suspicious because of inconsistencies in her claim and repudiated it.

When she was arrested in July last year the police found the camera and all the allegedly stolen jewellery.

But she maintained she had not tried to deceive anyone, and had simply been “completely befuddled”.

It is understood the cover was underwritten at Lloyd’s, but that Heath Lambert handled most of the administration.

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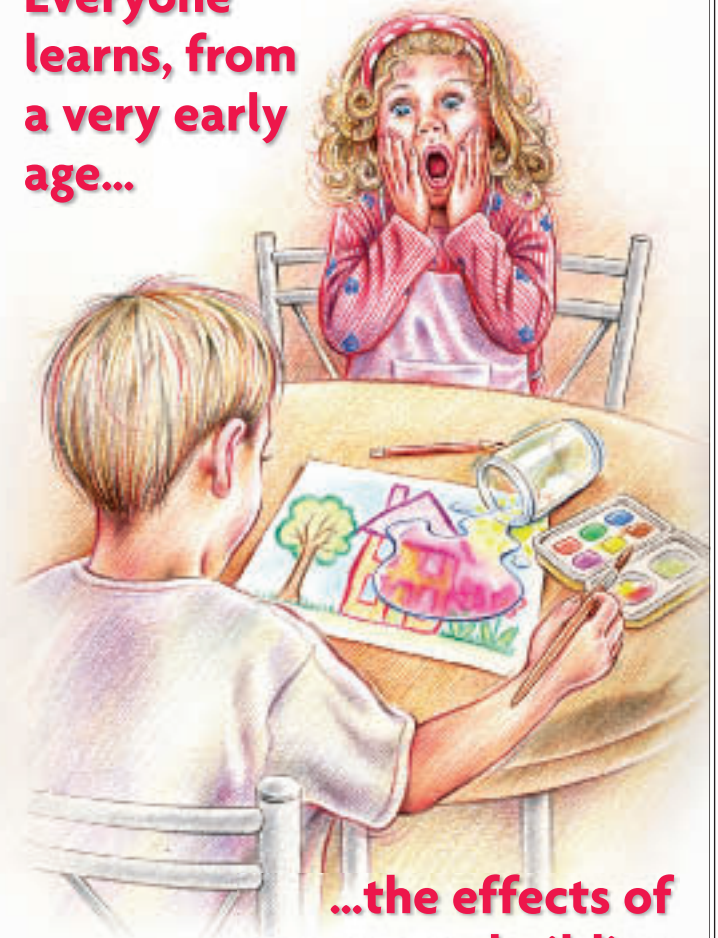
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How far should outsourcing go?

Nathan Skinner weighs up the arguments for outsourcing claims handling

→ Every insurer knows that well handled claims help to win more business, generate more capital and reduce expenditure. While badly handled claims lead to deeply unhappy customers.

That is because good claims management is not just a question of accurate accounting. When a customer makes a claim the insurer's entire reputation rests on the efficiency of this department.

Poor claims service can leave the customer feeling cheated and the insurer's brand tarnished.

The idea of outsourcing the claims function to a third party is controversial. Some companies see it as a way to

free up resources to concentrate on core activities, such as underwriting and broking. Others, however, see claims as a core part of the business and refuse to give a third party responsibility for delivering in this area.

Lost reputations

"Reputations can be lost very quickly if the claims department isn't up to scratch," says Steve Bartlett, a director with Heath Lambert Insurance Services.

"That's why, if you are outsourcing, it's important to sign a strict service level agreement with built-in financial penalties should the levels of service not live up to expectations," →



→explains Richard Holland, managing director of Capita Insurance Services.

Despite these misgivings, third party providers would argue that they can deliver increased performance cheaper. But changing the way a company does something is decidedly difficult.

Take the Kinect debacle, the much heralded attempt to convert Lloyd's brokers and underwriters to an electronic platform, which it pulled after widespread reluctance to adopt the system.

David Mead, chief operating officer at Aon UK, which outsourced its entire back office client operations division in September 2006, says: "While not a disadvantage, the transition does require significant effort to ensure success. And developing new skills in managing business partners is essential."

"Those companies that go into outsourcing with cost as the prime driver will be disappointed," he adds.

"Outsourcing should get you to a point rather than just shave a few pounds off operational costs," comments Roger Townsend, executive

director of Xchanging.

While risk carriers tend to be wary of outsourcing, some in the industry point to a cultural shift away from one company providing every service.

Those companies with the capacity and skills to manage claims may choose to retain the process in-house.

However, a limited availability of claims talent internally can place a high priority on focusing the most appropriate methods to get the job done.

"By outsourcing to a specialist, smaller companies can bring in professionalism in handling claims and tap into a broad range of expertise," says Capita's Holland.

But Aon's Mead says: "Firms have to be realistic about what they can excel at, and choose which activities they are going to retain in-house and which are best placed with a business partner for

whom those activities are core."

Bartlett says market forces drive outsourcers to market efficiencies.

"Those people that in-source for reasons of customer servicing can learn a lot from the outsourcers who have to compete for business with other third party providers," he says.

Whether a firm treats a particular function as core or not will affect its decision to outsource. Most general insurers tend to consider claims a core competency and therefore keep it in-house.

Lloyd's syndicates, on the other hand, have traditionally focused on underwriting and left claims to someone else. That's one reason why the Lloyd's market is desperate to encourage syndicates to adopt electronic processing.

As most syndicates outsource their claims the market is looking for an →

'If you are outsourcing, it's important to sign a strict service level agreement with built-in financial penalties'

Richard Holland, Capita

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efficient way of dealing with its third party providers.

The electronic claims file (ECF) initiative is designed to make processing claims faster by removing the inefficiencies associated with paper transactions. Lloyd's insurers and brokers have until the end of the year to start transacting all claims through ECFs.

Outsourcing, traditionally one of the main solutions for run-off claims, is also a way of delivering competitive advantage within live claims by focusing resources on core competencies.

Some look for a complete claims service outsourcing operation while others opt for pulling out particular lines of business.

Professional Risk Insurance (PRI) chose to concentrate on underwriting expertise and outsourcing the

majority of its back office functions to well known service providers. Xchanging handled its claims processing. The company was swallowed up by Brit in 2003.

For Aon, outsourcing claims processing is a way of freeing up technical and senior management resources to deal with clients. "By retaining those activities that are core to the client proposition in house and placing the high volume processing requirements with an outsourced business partner enables us to concentrate on delivering claims advocacy," says Mead.

In contrast, Willis has said it will definitely not be outsourcing its claims administration. Joe Plumeri, Willis chairman and chief executive, comments: "To be a successful broker we must deliver what the client

'To be a successful broker we must deliver what the client wants, and we can't deliver this effectively unless we own and control the processing function'

Joe Plumeri, Willis

wants, and we can't deliver this effectively unless we own and control the processing function."

Royal & SunAlliance (R&SA) shares a similar view. "We regard claims management as a core competency and a critical part of our offering to our customers.

"Where clear and material benefits are identified and these benefits cannot be easily replicated internally, then we would consider working with strategic partners," says R&SA technical claims director Steve Maddock.

Parcelling out

While outsourcing is certainly no panacea, in theory parcelling out activities that a company isn't best equipped to undertake seems to make sense.

When faced with a decision to outsource any insurer will need to accurately assess whether customer service and costs will be materially improved.

But simply using outsourcing as a basis to lob a problem over the wall for someone else to deal with isn't the right solution.

It should be more considered and all factors taken into account: such as the potential cost savings, business efficiency and the impact on customer service, all contributing to the final decision. **IT**



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The Motor Insurance Database has become a powerful tool for fighting crime, so brokers have a tremendous responsibility to provide accurate information fast, says **John Hancock**

Speeding on the information highway



→ Criminals tend not to insure their cars. Axiomatic, I know, but it illustrates just one benefit deriving from the motor insurance database (MID): among the most regular MID users are police forces, making one inquiry of the database every second.

But, the MID was not originally conceived as part of the fight against general crime. As Graeme Trudgill, technical services manager at Biba and a member of the Motor Insurers' Bureau's MID 'Fitness for Purpose programme board', puts it: "The MID's prime focus is in combating uninsured driving although by helping to take uninsured vehicles off the road, it often helps to stop a lot of other crime."

It was to address the specific problems arising from uninsured driving that the motor insurance industry first established the Motor Insurers' Bureau in 1946 to handle compensation claims of victims in accidents where the faulty party was uninsured or untraceable.

Since the Road Traffic Act 1988, all insurers underwriting compulsory motor insurance have been compelled by law to join and pay towards the bureau.

So perhaps, given the financial implications (especially in the UK where 2 million uninsured drivers representing 5% of the total are eight to 10 times more likely to be involved

in an accident costing the industry some £500m last year) it was inevitable that the bureau should establish the Motor Insurance Information Centre in 2000 to run a database on which all insured motorists could be listed with their policy details.

Now, with the introduction into the UK law of the Fourth EU Motor Directive requiring insurers of all UK vehicles to be traceable, the MID has taken on even greater significance as the compensation body under that Directive.

It is an offence not to have a vehicle insured and 60,000 uninsured vehicles were seized in the past year with 40% →

‘The MID offers peace of mind for our clients by establishing the other party’s [in an accident] insurance details but doesn’t really speed up the claim.’

Peter Legg, Arthur Savage Insurance

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→ of those being subsequently destroyed.

With consequences like that, it is important that insurance details are current on the MID. The introduction of continuous insurance enforcement will allow police to compare data currently held on the MID with data held on the DVLA’s vehicle database, so making even more onerous the responsibility to update MID data.

While the law allows only seven days for all private motorist information to be updated on the MID, in the commercial lines market it allows 14 days for policy information and 21 days for vehicle information to be updated.

Overall there are 8 million updates each month to the 34 million vehicle records held on the MID.

Another consequence of the requirements is to create an imperative for speed in the processing of policies and changes so that they can appear on the database quickly to avoid even temporary inconvenience for motorists. This is seen by brokers as an advantage.

Peter Legg, director at Dorchester broker Arthur Savage Insurance, says: “The MID offers peace of mind for our clients by establishing the other party’s [in an accident] insurance details, but doesn’t really speed up the claim.”

Other than that, the benefits for

brokers are often more in the shared credit for a better overall motor insurance system than specifically in the broker/policyholder relationship.

Colin Carter, director at Wickford broker Gardners Insurance Services, says: “Its more efficient for our customers with manually issued policies because they are issued more quickly.

“Although insurers have no time obligation to issue a policy, by the time the MID update requirement has been completed, most of the issue process will also be complete.”

This speed should also reduce work for broker office staff. It also suggests an added value service that brokers can offer in ensuring that private motorist clients supply their vehicle details in good time for the insurer to make a full update of the MID. They can also offer a service for commercial clients to handle their submissions to the MID, although clients will still need to supply their information in good time.

Ashton West, group chief executive of the Motor Insurers Bureau, says: “It is not uncommon at the time of a crash for the other party to provide insufficient details at the roadside to enable the innocent party to process a claim.

“Accessing the MID can therefore accelerate the claim process.

“The MID has improved the claims process and added value in terms of keeping the costs of claims down. During 2006 there was a 4.7% decrease in the number of claims reported to the bureau.

“The downward trend is encouraging, but more needs to be done to stamp out uninsured driving. Uninsured drivers are selfish in the extreme and they are often involved in serious crashes resulting in catastrophic injuries and sometimes the death of innocent victims.”

On the other side of the coin, one concern is that different insurers have different ways of updating information on the MID. Coupled with varying approaches between personal and commercial lines plus different broker updating services this seems more complicated than need be.

The responsibility on whoever is undertaking the MID update is considerable and brokers need to ensure that clients are aware of the requirements to be fulfilled at any change in information and that whoever is charged with the job also understands the seriousness of the requirement and the potentially catastrophic consequences of error.

There have also been software problems with, as Trudgill puts it, “some EDI software not able to fully integrate with or update the MID yet”.

But the proof of this pudding will lay not so much in its usefulness to government and law agencies as in its performance in achieving its original purpose.

After all, some brokers complain that even when the database identifies uninsured drivers for the police, the subsequent court process does not really seem to offer any deterrent to wrongdoers.

But there has been a drop in the number of accidents involving uninsured drivers and, while the actual cost continues to rise because of the high rate of claims inflation, this must be counted a result for the industry.

So the MID is of value even if some of its benefits are tangential or more in the opportunities for service that they open for brokers. And there is no doubt that it adds value to overall industry integrity. **IT**



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The modern broker must become a claims champion

Caroline Jordan says that brokers should see claims as an integral part of not only their business but as part of customer service

→ There are plenty of brokers out there who are claims champions. But, wanting to do their best for clients and having the required resources is not easy. Even so, it could be argued that those who are only interested in bringing in the business are missing a trick.

If a broker employs its own claims people, it has to decide whether to staff the division up properly or perhaps go for one experienced individual who will be limited in the time they can give, but still act as a single point of contact.

No one needs reminding that regulation has imposed a heavy cost burden on brokers and they may feel it is either more worthwhile or indeed essential to spend their funds on broking and business development people rather than on a claims team.

But, Lloyd's broker Cooper Gay looks at it another way. It has some 20 dedicated claims staff and director Peter Dalton comments: "We're handling a wide range of claims including property and marine and much of it is international business. →

→ “We are punching above our weight, it could be said, but we also see it as a selling point. In fact our new marketing literature will draw more attention to what we can offer.

“It’s becoming apparent during the tender process that more clients want to know what will happen if they have a claim. We can show them we have the people and capability to do the work.”

Soft market

It has been suggested that the soft market and the reduction in profits has led insurers to take a tougher line on claims. They are rejecting more and “losing” documentation to stall making payments, while trying to find reasons not to pay.

Dalton comments: “An in-house claims team can feed vital information back to the brokers. I have said there are some syndicates and insurers who have bad service and are far too willing to turn down claims. On the other hand, there are others I could name such as Amlin, that are fair. This has to make a difference when the broker selects the carrier – and of course we also keep a close eye on an insurer’s security.”

Dalton explains that he, or a member of his team, could well attend a pitch with broking staff. But, there are other brokers who will be far keener to push claims work directly onto the insurer – or they may have outsourced the facility. Dalton questions whether this is a wise move.

Last summer, broker Aon signed a £230m outsourcing deal with Xchanging, the business processing services company. The 10-year service contact started last September. →



‘In the case of a borderline claims, I urge the insurer’s claims team to look at the overall book of business. If it is generally performing well, then we will tell them to pay up’

Simon Burgess, British Insurance



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→ Some 500 Aon employees were transferred from Aon to Xchanging in a deal involving client operations – handling current and legacy insurance claims administration and processing, as well as accounting and settlement for clients within Aon’s reinsurance division and its specialist and wholesale units.

Time will tell if the service is up to scratch, but Dalton believes there is no substitute for in-house expertise.

Robert Blackman, the manager responsible for claims recruitment for consultants Joslin Rowe also says outsourcing is not necessarily a guaranteed recipe for success. “Right now we have a large number of opportunities for claims professionals within brokers. More firms seem to see a strong claims operation as being a key way of retaining clients.”

He says claims has left behind the image that it was somehow secondary to underwriting. “If anything there is a view that the work is more satisfying and technically challenging. We are also seeing more graduates look at claims.”

He says jobs on the books for claims people within brokers offer salaries from £20,000 to in excess of £100,000 for a claims director.

But, smaller brokers clearly are less likely to be able to offer such a hands-on service. Nevertheless, some do see a key function of their role to be offering support in an hour of need.

Fair service

Simon Burgess, managing director of British Insurance, says he has come down hard on several insurers if they have refuted or been tardy in paying claims. His firm specialises in payment protection insurance – a sector which has a tarnished reputation, particularly when cover is sold direct.

“In most personal lines areas, a broker will not need to get involved. The insurers should have good in-house processes and when it is a low value

commodity product a broker may only have limited time to assist.

“But, on several occasions I have put pressure on an insurer or syndicate – I make no bones about it – we will threaten to move business if we are not satisfied with the claims service. And, in the case of a borderline claim, I would also urge the insurer’s claims team to look at the overall book of business. If it is generally performing well, then we will tell them to pay up.”

He adds that he has also threatened, or made, complaints to Lloyd’s or the ombudsman if he feels the customer is being unfairly treated.

And, Rod Lynn partner with small broker Scullard & Prosser, adds: “We always try and recommend clients take out good quality legal expenses cover because having a legal expert on your side can be of valuable support – and we are always there to help too.”

“Our clients know someone with a friendly voice is available to help and that includes chasing an insurer or adjuster to find out what’s going on.

Brokers’ role

Meanwhile, Steve Foulsham, technical services officer for trade body Biba comments: “Brokers have a big role to play in claims. I deal with a lot of calls from members of the public and it turns out a lot of these are from people who have bought direct and are struggling because their insurer has a call centre in a remote location which is not providing the service.

“Added to this, you have loss adjusters who are under pressure and increasing desk-topping to win business. This again worsens service. I know it is tough for brokers to dedicate the resources but it really can pay off in terms of client satisfaction.”

He adds that Biba offers members facilities to bump up their claims service such as preferential rates with ISS Damage Control for fast clean up, in the event of a claim and loss recovery insurance with Lorega.

Aash Patel, senior consultant, Winchester White:

“There has been a long history of sections of the intermediary market wanting to manage claims in-house. Many have cited the ongoing poor services some insurers have provided to customers and with some justification.

However, service can sometimes mask another objective that intermediaries have of wanting to manage claims, and that clearly is the revenue they can generate from delivering that service.

From a service perspective, it can make sense in certain situations for intermediaries to manage claims, for example, simple settlements up to a delegated authority. However, for more complex claims, or where an end-to-end service needs to be provided, most intermediaries don’t have the expertise or infrastructure to deliver this service.

Perhaps just as importantly is the increasing burden of FSA regulation that intermediaries will need to abide by if they were to manage claims.

ICOB 7.4 defines the standards intermediaries need to meet to fulfill their compliance obligations. They must act with due care, skill and diligence and disclose any potential conflict of interest. Intermediaries who fail to take heed of these rules do so at their peril.

The conflict of interest aspect is a minefield. If a broker is under a profit commission arrangement with an insurer, can they validly determine the outcome of a claim?

Does part of the commission they receive for placement of that business include a claims handling charge, even if this isn’t expressly stated?

If the broker has a delegated authority agreement with the insurer, how is this reconciled with the aspect that the broker acts as agent for the customer?

The above applies in a traditional broker/insurer relationship, but in today’s market it is harder to distinguish if a company is a broker or insurer as they may have elements of their operation where they perform both roles (for example by using external underwriting capacity for part of their portfolio while keeping some element of the risk themselves, as with Admiral).

Also with the recent spate of broker purchases by insurers, it may be a corporate strategy to leverage existing infrastructure and absorb back office operations, part of which may have traditionally been provided by the relevant risk carrier.”

This provides an adjuster who works for the policyholder. “The switched-on broker sees claims as a tangible way of proving their worth – and they are not afraid to take on an insurer if necessary.” **IT**

Do you still live in the last century and believe that the drying of major flood or long term water damage to properties is best done by "experts" unnecessarily hacking off plaster and ripping out timbers? Drying using old fashioned dehumidifiers over many months and monitored using just a simple moisture meter?

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Tom Flack looks at how new regulations on personal injury claims will impact on brokers

Is this the end of referral fees?

→ 'Referral fee' is a somewhat tainted, and decidedly shady, term in the insurance world. It is no secret that insurers and brokers take sums of up to £750 from solicitors in exchange for the details of an injured person to pursue a claim.

With 400,000 road traffic accident cases a year, the total value of the claims management market is around a quarter of a billion pounds.

Referral fees have generated a considerable amount of regulatory discussion. The issue is being attacked from a number of angles, with unregulated claims management companies being the primary target.

The government's proposed reforms of the claims process, published on 20 April, should eventually bring some clarity to a realm seen by

some as ravaged by self-interest and abuse.

In the extensive interim a new law, introduced on 23 April, will assist in this.

It is the second part of the 2006 Compensation Act, which covers commercial claims management services and claims in a range of areas including: personal injury; employment; housing disrepair; industrial injuries disablement benefits; criminal injury; and financial products and services.

The FSA currently regulates brokers for their direct insurance activities, but not for third party areas, including claims capture.

Under the new legislation, brokers who refer a large volume (25 cases per calendar quarter) of personal injury

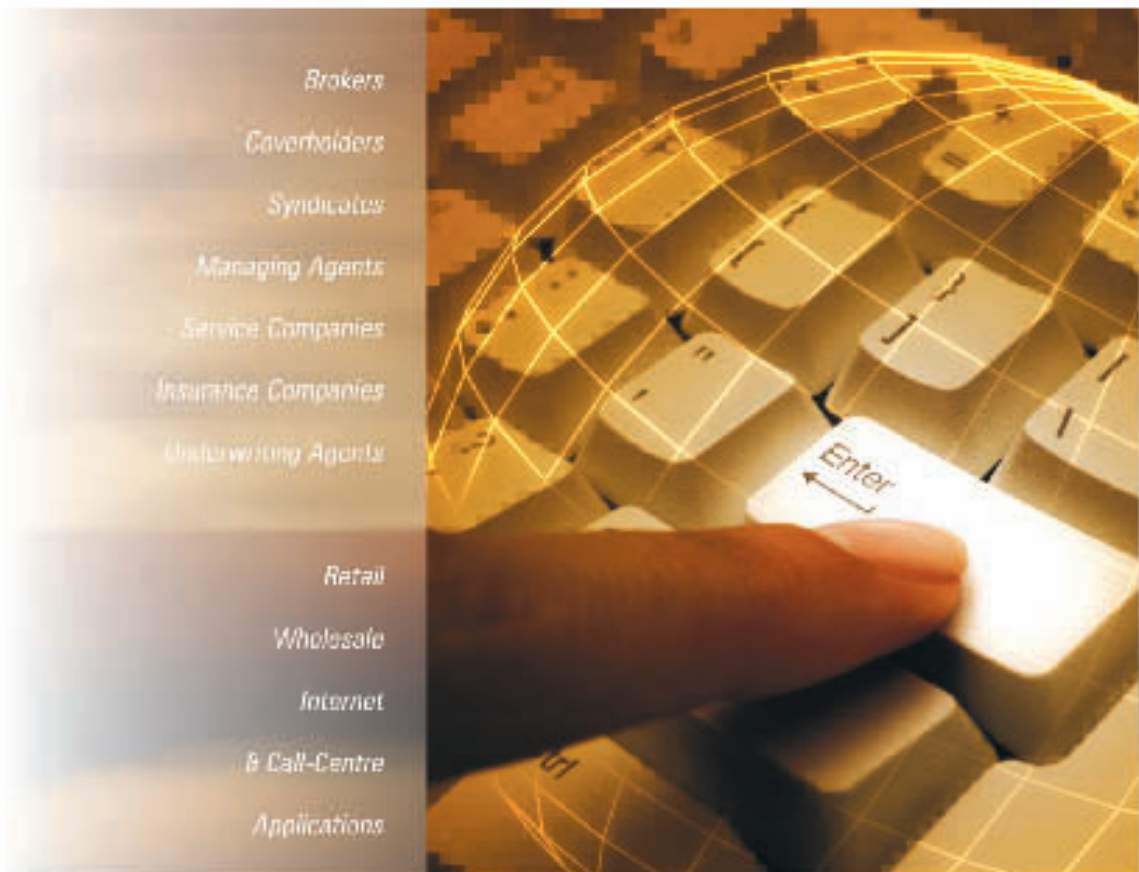
claims to solicitors must gain authorisation from the Ministry of Justice. Without prior authorisation, exemption or waiver, stiff penalties – such as up to two years' imprisonment – can be imposed.

Brokers behind bars

It sounds serious enough, but how many brokers can we realistically expect to see behind bars?

The answer is very few. The new regulations apply only if there is no legal expenses insurance in place, and clients are advised by a broker how to pursue a claim.

Although some brokers now face a second regulator, the legislation is aimed at those who fall outside the glare of the FSA. In effect this means the larger players, such as those who



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'Brokers don't hang around on street corners trying to drum up claims. Their business is being insurance brokers'

Andrew Welch, Stepheⁿsons

have set up separate claims management companies.

So there could be some high profile wrist slappings. But that may be the end of it. The Ministry of Justice is keen to add that it is not a question of size, but behaviour.

"What matters is not how big they are, but what they are doing," says Mark Boleat, head of claims management regulation.

Andrew Welch, head of litigation at Stepheⁿsons, says: "By and large, brokers don't contribute to this market.

"They don't hang around on street corners trying to drum up claims. Their business is being insurance brokers."

Authorisation process

The authorisation process is relatively straightforward. Brokers must fill out paperwork declaring their turnover related to claims management.

Despite its simplicity, the response from brokers has not been as hoped.

"The number of brokers that have come forward is at the low end of expectations," says Steve White, head of compliance and training at Biba.

"In other areas that the compensation paper has touched, they have been at the high end."

The Ministry of Justice, however, insists that it had no such expecta-

tions. It said that 159 organisations had filed for authorisation so far.

But Boleat insists: "This legislation is capable of providing the regulation the market needs."

What is clear is that double regulation serves no one's interest.

The Ministry of Justice is rightly optimistic that the combination of its consultation paper and the Compensation Act will have a significant effect on the claims management market, curbing the scope for malpractice.

With over 1,100 intermediaries in this market, mainly specialists in claims management, this scope is colossal.

There is a difference, after all, between making a law and enforcing it. Non-compliance with regulation is endemic, and no one doubts it is a difficult sector to regulate. There are also implications for fraud.

As a result, the idea with the new legislation is that it will be self-policing. Just as brokers will not be allowed to make referrals beyond a limit, solicitors will not be allowed to accept them.

"If solicitors stop accepting claims, then organisations will stop appealing to them," Welch adds. "The idea is to remove the market."

The Law Society, which regulates solicitors, has also said it would be "cracking down on solicitors whose referral arrangements compromise their clients' interests, and who undermine public confidence in solicitors".

The results have implications for brokers.

Under their revised code of conduct, solicitors must disclose details of referral fees to claimants.

Clearly, some brokers will be less pleased about details of their business practice being made available to their clients.

On the other hand, it could be argued that a broker's business is based on commission, and referral fees are a necessary part of that process.

Broker relations

Either way, the new legislation will affect broker relations with policyholders, if not referrals themselves. There are reasons to believe the situation could change, however.

The voracious appetite of price-driven e-business could change the face of the market. With increasingly stripped down forms of cover, there will be a rise in the number of policyholders who do not have legal expenses cover. This will impact on referral fees – except not in the way the government would have hoped.

Indeed, while the Compensation Act is a worthy attempt to bring regulation to claims management, it is generally accepted that the elimination of referral fees is on the high side of impossible.

Moving toward transparency – coupled with a healthy dose of accountability – is the next best thing. Boleat adds: "There is no government policy to get rid of referral fees. Our policy is about disclosure."

What this means for brokers is the outlook will remain distinctly hazy. It is difficult, after all, to fight an enemy that you cannot see, as White concludes: "The problem is no one really knows how much – or how many – brokers are doing it."

In the meantime it is a step, albeit a small one, in the right direction. **IT**

The Buncefield disaster highlighted the importance of disaster recovery planning for businesses. **Anita Anandarajah** asks if lessons have been learned

Don't be interrupted

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It is 18 months since the Buncefield disaster yet the lessons of the importance of disaster recovery planning have still not been learned.

The insurance industry seems to be an isolated voice encouraging companies to recognise the importance of business continuity planning and disaster recovery.

David Williams, claims director at AXA, says that a majority of companies are not taking business continuity planning (BCP) seriously. He points to a 'it won't happen to me' mentality, where some companies have done nothing about business continuity planning and have not allocated a long enough period to manage business interruptions.

The awareness is gradually improving but proper disaster recovery planning (DRP) is still not seen as a priority to many companies. Steve Agutter, claims manager at AIG, has seen companies with good business continuity planning in place even pre-Buncefield but sees many who do not.

Agutter says that although a catastrophe like Buncefield invariably brings the importance of BCP to the forefront for more businesses, it is generally the larger firms who are considering it.

He says: "Smaller companies are not yet at the same level. They are not as

advanced when it comes to disaster planning so insurers and loss adjusters have to put in more effort to work with these clients often at the stage of a claim. We normally try to have discussions during the renewal period or when an acquisition is made, rather than at the major loss stage, if possible.

"With larger clients, we find that we are being approached to work through scenarios of what would happen in the event of a major loss and even write us into their BCP so roles and responsibilities are defined at the earliest stage."

Forward planning

In the aftermath of Buncefield, AIG found that one of its clients Northgate Information Services, had excellent BCP. This enabled the insurer to get its client to relocated premises immediately after the explosion and saw a claims pay-out of £10m in 10 days, one of AIG's biggest to date.

In the instance where a loss cannot be settled quickly and there is inadequate BCP, the company may still get some money from business interruption (BI) cover, but it may face losing its customer base through being unable to relocate.

Rather than wait for planning permission to come through in disaster zones like Buncefield and risk running

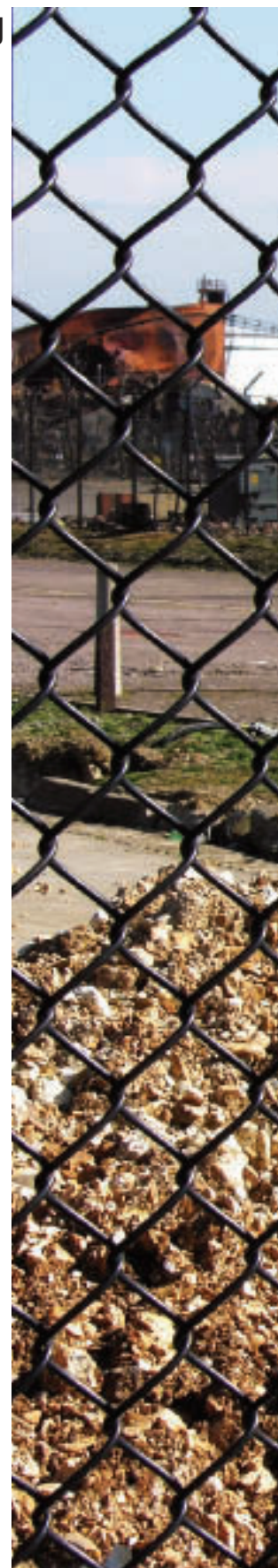
out of BI cover, AXA has been offering another form of disaster recovery planning – paying cash that relates to the damage so that the client can use it to secure alternative premises. The affected property will remain in the hands of the insurer.

Some businesses have not been so lucky. Dacorum Borough Council recently announced, on the advice of the Health and Safety Executive (HSE), that a substantially damaged warehouse within the 190 metre consultation zone will not be allowed to reinstate its building.

Graham Winwright, head of planning and regulation at the council, says the HSE consultation document recommends that applications for buildings that house more than 100 people be refused planning permission. There are currently two other companies awaiting approval.

Andrew King of Marsh's forensic accounting and claims services division says this raises the issue of whether they can claim the blighting of the site. "The worth of the sites are now diminished to a single storey car park status."

There is no legal responsibility established to date. King says: "Someone should look into our general law of liability, which is mostly based on case law. With the Toulouse accident, which occurred in 2001, lia-





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One of many demolished sites in Hemel Hempstead Industrial Estate, caused by the Buncefield explosion

‘Disaster recovery plans are invariably not tested with sufficient regularity. They are not immediately accessible or current. People often forget that such plans even exist’

Steven Wallace, MYI

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bility was established within the 12 months required under French law.

“With Buncefield, claims have only been made because of political pressure. Larger commercial clients have been paid through their insurance arrangements, but the BI indemnity period ended after 12 months – a lot of losses have been incurred since then and everyone’s waiting to claim from the party responsible.”

Corporate governance

Even in instances where DRP has been put in place, it proved to be simply an exercise to fulfil good corporate governance.

Steven Wallace, chief executive at loss adjuster MYI, says: “These plans are invariably not tested with sufficient regularity. They are not immediately accessible or current. People often forget that such plans even exist.”

Williams says ideally, these plans should be updated when there is a substantial change in what the company does – whether it takes on a different type of work or a new customer with particular demands.

“The best way to put DRP’s into operation is to be familiar with it, which means updating them annually.”

However, having DRP’s in place doesn’t necessarily guarantee a smooth ride through the crisis.

James Shrimpton a partner at law firm Davies Lavery, says that while having strategies in place won’t prevent a prosecution by the HSE, it would make the process of an investigation more controlled.

Shrimpton points out that 90%–95% of the time, lawyers are contacted after the event. “A lot of time companies react to a set of circumstances and at that point lawyers get called in to help advise throughout the investigation.

“With any disaster, you will find yourself under extreme scrutiny by the HSE and the police.”

Best practice dictates that one person within the organisation, usually the health and safety manager, be

appointed to work with the HSE. This is as opposed to a director, who will be concerned with business recovery and the company’s image.

The health and safety manager should be working out what resources he will need to manage a large scale investigation, what role he will play and who will assist him.

Documents will have to be copied for the HSE. Records should be kept on which documents have been taken, who has been interviewed as a witness and where the HSE officers should be housed within the premises while investigations are ongoing.

Shrimpton says: “You wouldn’t want them in the middle of an open plan office – staff morale may be affected. From a practical point of view, by allotting the HSE a work area, they won’t be overlooking or overhearing private conversations senior management may be having.”

The recent flooding in the North proved to be another exercise in disaster recovery planning, or rather the lack of it.

Les Wright, Leeds partner at the Davies Group of loss adjusters, points out that the company is dealing with 10 times the normal volume of claims it would have, at this time of year, in light of the deluge of surface water.

Citing the example of a country house hotel in Yorkshire that was badly hit, with the ground floor under two feet of water, it was discovered that the client did not have any disaster recovery planning in place.

Wright says: “They did the reactive thing, which was to contact the insurance company which in turn contacted us.”

Because the hotel acted quickly, Davies was able to pull out all the stops to help return the business to full operation by the coming weekend, in time for two weddings.

“By Saturday we had the discovery recovery team and the fire brigade pumping water out of the hotel. We were able to get the appropriate disaster restoration specialists and building surveyors on the scene.”

Only time and more painful lessons will tell whether businesses will take disaster recovery more seriously. Just remember, it could happen to you. **IT**



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Many businesses have no plans to recover from a business disaster, despite it being a regulatory requirement. **Andrew Holt** reports on how brokers are getting involved

Why businesses should get in the recovery position



timestwo: Jul 2007 34

When it comes to brokers and disaster recovery are brokers up to speed? The broker body, Biba is pushing for them to be. Last October the association under-

took a survey looking at business interruption, risk management and business planning with the whole aspect of business continuity and disaster recovery at its heart.

What was revealed was how much of the business community need the

broker's input. Steve Foulsham, Biba technical services officer, says: "What became apparent is the number of businesses – especially SMEs – who have no form of business continuity planning."

Fifty per cent of businesses said →

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EXPOSURE	LIKELY TO RISE	LIKELY TO DIMINISH
Business continuity	56%	0%
Environmental	53%	3%
Reputation	45%	4%
Contractor	40%	1%

→ they had no form of business continuity plan and, of those, 85% believed they didn't need one. "Brokers have a role to play here, advising their SME clients about the importance of business interruption and disaster recovery, because it is only an extension of risk management and brokers are now advising on this all the time," says Foulsham.

Biba has also been busy pushing the business interruption and disaster recovery message through the parliamentary system, lobbying the government on its importance to UK plc. In this regard, Biba hooked up with Hemel Hempstead MP Mike Penning, whose constituency includes the Buncefield site, to highlight the case of disaster recovery. Buncefield impacted on 400 businesses, resulting in 16 relocations.

"Brokers have to be able to advise on all threats to a business," says Foulsham. When you consider, terrorism, flooding and other natural and human disasters, that is one hell of a list of capabilities brokers must be able to deal with.

"Business continuity and business resilience should be a central part of the agenda when a broker meets a business client and this should be reviewed on a

'An enormous range of people and organisations from social workers to global corporations all claim to practise risk management, but we lack a shared understanding of what it means'
Geoff Taylor Airmic

regular basis," adds Foulsham.

But it is not just a case of drawing up a list of requirements he says. "Business continuity is a bespoke service and the requirement of each business is specialist to that business. Brokers know what requirements each business needs so therefore know what specialist needs they have."

The outgoing executive director of Airmic, David Gamble, agrees. "Brokers who choose the value-added route should consider risk management in its roundest sense. Offering this kind of guidance will not only make you a valued partner for your SME clients, it will increase the chances of them surviving and prospering."

This survey follows Biba's teaming up with Broker Continuity Planning → to launch a broker-orientated facility for "work area recovery space" including full broker IT services.

The scheme provides a real life disaster recovery solution but more importantly it helps members to comply with FSA regulations. The FSA requires all regulated businesses to have a business continuity plan.

Regulations state: "A firm should have in place appropriate arrangements having regard to the nature, scale and complexity of its business, to ensure that it can continue to function and meet its regulatory obligations in the event of an unforeseen interruption."

Biba says the FSA regulations make it quite clear that having a written plan is not enough. The plan must be capable of action and must be tested.

Each 'recovery' site will be specially created for the insurance market and will offer up to 100 seats in a modern office, fully cabled and fitted with new seats, desks, telephones and Dell →



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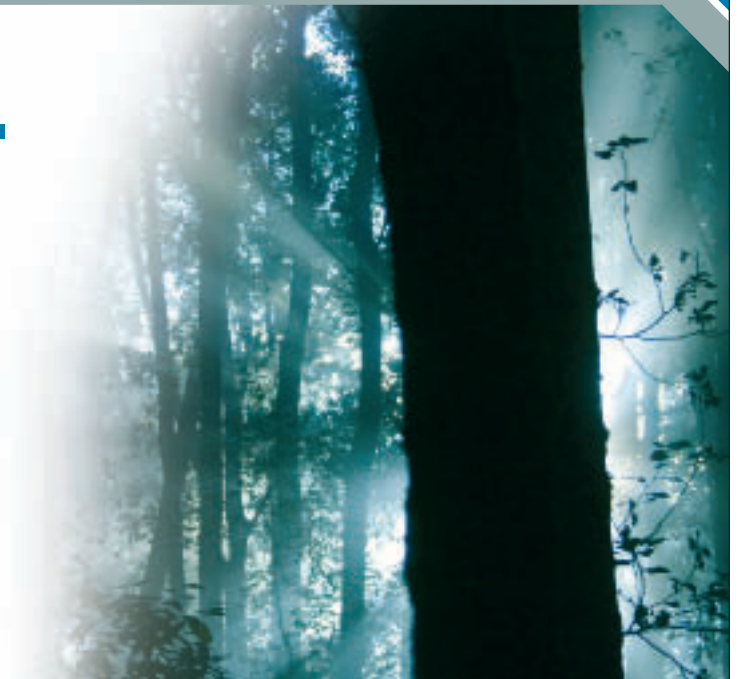
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→ hardware. “Brokers are regulated by the FSA so business continuity planning applies to them,” says Foulsham.

Among Airmic members, business continuity planning, environmental exposures, reputation and contractor exposures are the issues emerging most rapidly.

On a practical level, Airmic and Det Norske Veritas (DNV) are co-operating in an in-depth research project into enterprise risk management (ERM), to show its applicability to business.

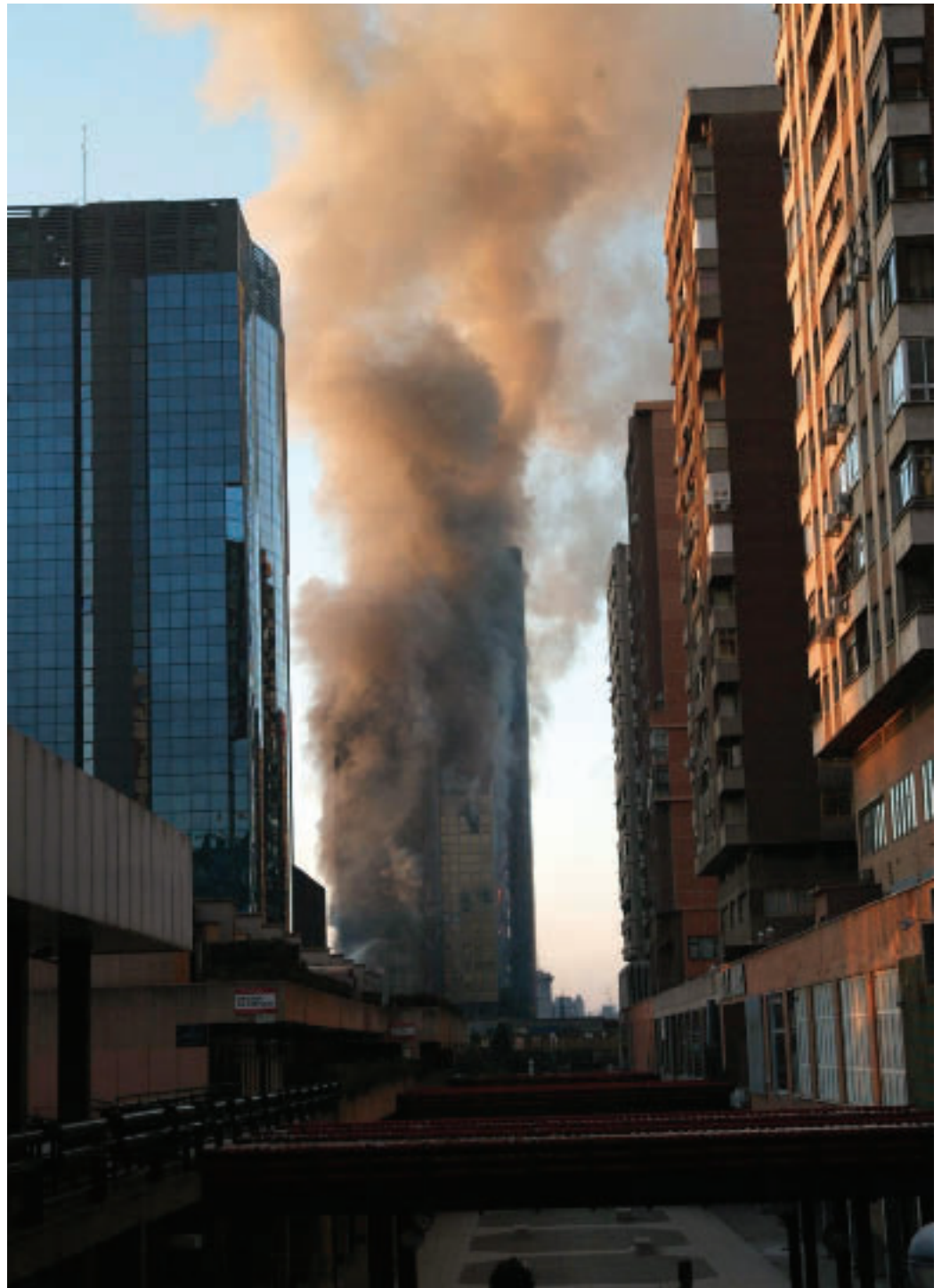
The aim is to measure the worth of ERM and the circumstances under which it adds most value. It is the first research of its type, since it attempts to present a rigorous bottom-up assessment of the benefits of ERM.

Airmic chairman Geoff Taylor says: “An enormous range of people and organisations from social workers to global corporations all claim to practise risk management, but we lack a shared understanding of what it means. We need to bring clarity to an overused concept and demonstrate how best to go about ERM.”

David Salmon, of DNV, adds: “We intend to provide an insight into what works to provide practical support to anyone involved,” said. “We hope to derive a bottom-up picture of the actual benefits of ERM, and also provide an insight into how to avoid the pitfalls. Our assessment will be based on the real-life experiences of the organisations involved.”

The findings are expected by early 2008 and will make interesting reading to many.

Taylor adds: “I see this report becoming a reference point for risk managers, businessmen, government and anyone else with an interest in risk.” **IT**



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