



The Chartered Institute of Loss Adjusters

Associateship Examination 2011 (April)

Paper C3

Adjustment of Claims Subsidence

3 ½ Hours

Maximum Marks 200

Answer ALL questions in Part 1 and 2 questions from Part 2
Where appropriate, answers should make reference to relevant case law or statute

**PLEASE ENSURE THAT QUESTION NUMBERS ARE ENTERED CLEARLY AND IN FULL
ON THE COVER OF YOUR ANSWER BOOK AND IN YOUR ANSWER BOOK**



PART 1

ANSWER ALL QUESTIONS

QUESTION 1

a) In a typical Business Interruption Policy explain what each of the following terms mean?

- Alternative Trading Clause
- Professional Accountants Clause
- Denial of Access extension
- Loss of attraction
- Rate of Gross Profit

(15 marks)

b) When dealing with a claim under a typical Business Interruption Policy explain briefly the following:

- i) The difference between the following terms:
- Increased Cost of Working
 - Additional Increased Costs of Working

(5 marks)

ii) The difference between cover on a Sum Insured basis and a Declaration Linked basis.

(5 marks)

c) A Business Interruption Policy is sometimes described as covering “consequential losses”. Detail five consequential losses that might result in a claim but would fall outside the scope of the cover of a typical Business Interruption wording.

(15 marks)

40 MARKS



QUESTION 2

1. You are dealing with a claim for fire damage at a two storey, semi-detached property occupied by the Insured, Mr and Mrs Patel, and their family. Your Principals' policy covers both Buildings and Contents. The fire originated in the kitchen on the ground floor and may have caused by the Insured's children playing with matches.

a) Briefly detail the enquiries that should be made, the initial action that should be taken and what advice should be provided to the Insured.

(16 marks)

b) At the time of your visit, the Insured tell you that they have been advised that they are entitled to be represented by a Chartered Loss Adjuster to present their claim. The Insured ask you if the Loss Adjuster's fees would be covered as part of the claim and if it would be in their best interest to appoint the Loss Adjusters to act on their behalf. How should this enquiry be dealt with?

(6 marks)

c) Mr Patel is a Building Contractor and wishes to repair the building damage utilising his own building company for this purpose. How should this request be dealt with and what advice should be given to your Principals?

(6 marks)

d) You are contacted by the occupiers of the adjoining property. They tell you that their property has been affected by smoke and heat and that they are holding the Insured responsible for the damage since the fire originated within their property. How should this situation be dealt with and what should the response be to the neighbours? What, if any, specific legislation or case law applies to circumstances of this type?

(6 marks)

e) The Insured ask if they can move into other suitable premises until the necessary building repairs have been completed and essential contents have been replaced. Explain briefly how this request should be dealt with and what criteria applies to establish if this can be allowed.

(6 marks)

40 MARKS



QUESTION 3

The Insured owns a Manor house set in 25 acres of land in the countryside. He and his family leave the premises for a weekend break, all the doors and windows are locked and the centrally monitored Intruder Alarm System is set.

When the family return they find the home has been broken into. Although the alarm bells activated, an alarm signal was not received by the central station. The alarm system had been serviced by the Alarm Company Engineer one week before the incident.

The floor mounted safe, within the master bedroom, had been forced from its mountings, dragged along the landing and pushed down marble stairs to the drive where the police believe it had been loaded into a van. The safe contained jewellery, documents and £4,000 in cash. The thieves took a number of silverware items from a table in the entrance hall. Whilst moving the safe, a valuable oil painting was damaged. They also stole a quad bike used by the family in the grounds.

The perpetrators drove their vehicle across a lawn and through a hedge causing damage to both of these, ending with a collision with a statue.

Whilst on site the Police notice an oil painting hanging on the wall which had been reported stolen by an art dealer a year ago, as a result the Insured became legally obliged to return the painting to the rightful owner.

The Insured has a typical “High Net Worth (HNW) Policy”, which provides cover as follows:

- Buildings
- Contents
- Fine Art
- Personal possessions
- Family Legal Protection
- Identity fraud and
- Emergency property assistance.

In reporting to Insurer’s consider the differences between “standard” type Domestic Policies and “HNW”.

1. In respect of the buildings claim the Insured wishes to use his preferred contractor to undertake repairs in the house, repair the statue and re-lay the damaged section of lawn and replant the hedge. It transpires that the Buildings sum insured is unintentionally inadequate. Comment upon the Insured’s request and discuss how you would expect Insurer’s to handle the underinsurance issue.

(10 marks)



2. Regarding the items in the safe, what would you expect to be the difference in the handling of the claim and policy cover afforded between a “High Net Worth Policy” and a standard Household Policy?
(10 marks)
3. Discuss the likely extent of Policy cover in respect of the damaged oil painting.
(5 marks)
4. Comment upon the Insured’s position in respect of the painting he had to return to the owner and likely policy response.
(5 marks)
5. How should the claim for the quad bike be dealt with?
(5 marks)
6. Comment upon the failure of the Alarm System to send a signal to the central monitoring station. Explain how this might affect the claim.
(5 marks)

40 MARKS



PART 2

ANSWER 2 QUESTIONS ONLY

QUESTION 1

You are instructed to report on a retained basis for a subsidence claim. The instruction involves cracking to several properties on a new housing estate. The properties are two years old and the gardens have a significant slope down towards the coast and the initial indications are that the damage relates to landslip. At the time of your first visit you establish that at least five properties have damage.

- Please outline what enquiries should be made and the key points that should be included within a preliminary report to Insurers.
(12 Marks)
- Detail the typical enquiries/further investigations that should be made or could be expected to be made to establish the cause of the problem.
(12 Marks)
- You discover that the foundations of the houses are traditional strip footings around 1.2 m deep. What possible exclusions might operate in respect of policy liability, and explain your rationale?
(6 Marks)
- What, if any, possible routes of recovery exists and comment whether there is case to pursue the Local Authority. Quote case law as appropriate.
(10 Marks)

40 MARKS



QUESTION 2

A semi detached bungalow has recently been renovated. Part of the renovation included forming rooms in the roof and the old slates being replaced by heavier clay tiles. You are called to inspect evidence of cracking at eaves level, but upon closer inspection you discover widespread cracking throughout the fabric of the building both internally and externally.

Detail at least five initial key enquiries that should be made. (5 marks)

Subsidence damage tends to be typified by key characteristics. Name at least five different aspects. (5 marks)

Cracking ranges from 0.5mm to greater than 25mm in width. Outline using sketches where appropriate, **FIVE** different ways of repair. (8 marks)

There is a £1000 excess in respect of subsidence but the homeowner complains they cannot afford the policy excess. Explain how the claim might proceed and how in these circumstances the loss might be practically adjusted. How would the position change if there was a mortgage interest? (4 marks)

Cracking at eaves level may be due in part to roof spread. Explain in detail how the claim might proceed in the absence of the insured not repairing the roof. Assume there is a mortgage interest on the property. (5 marks)

The customer will not accept the decision that you have made under Delegated Authority and wants to refer the matter to the FOS. Outline what steps are necessary before this can occur. (3 marks)

Consider what recovery opportunity might arise under the policy in respect of the work carried out by the roofing contractor, who is known. Explain the basis of any recovery action, indicating your rationale. (5 marks)

The investigations indicate that the extra loading has caused settlement of the walls rather than subsidence. Debate the difference between settlement and subsidence quoting case law as appropriate. (5 marks)

40 MARKS



QUESTION 3

You are instructed by Insurers to investigate cracking to a purpose built block of flats it is three stories high with two flats on each floor. The property is around 15 years old. You are instructed by the insurers of flats 5 and 6 which are located on the first floor. The owner of flat 5 has only owned the lease on the property for 12 weeks and the owner of flat 6 has owned the lease for several years. There appear discrepancies in the leases as the lease for flat 5 appears to make the first floor flat responsible for the structure above the first floor including the roof and the ground floor flat responsible for the foundations. The other lease for flat 6 suggests all flats have the responsibility for the repairs. The remaining flats have yet to submit a claim. The owner of flat 6 has obtained a report from an engineer that suggests the damage is subsidence caused by the Local Authority trees located in the verge.

- Describe what enquiries should be made (10 marks)

Subsequent desk top enquiries reveal the property is supposed to be constructed on 8 m deep piles with ground beams with anti heave provision around the beams.

- What investigations and testing should be asked of the engineer to verify the cause? (10 marks)

As you had expected, the tree expert identifies that the roots discovered beneath the foundations originate from the Local Authority trees. However, the foundations are not on piles but deep trench fill.

- What are the four elements for a successful recovery and how might the change in foundation construction affect any recovery action against the local authority? Referring to relevant case law, what are the four elements for a successful recovery of your insurer's eventual outlays? (6 marks)
- If liability was not an issue and flat 6 wanted to sell the flat what advice should be given? (6 marks)

As part of supplementary claim there is damage to a car park and retaining wall. The retaining wall which supports the car park is 2.5 m high and appears to have failed either due to a build up of water behind the wall or due to landslip as the slope is approximately 10 %.

- Detail the typical enquiries that should be made and comment on policy liability quoting case law as appropriate. (8 marks)

40 MARKS