

*The Chartered Institute  
of Loss Adjusters*

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# Future Focus 2015

## Proximate Cause

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# What we will be exploring

- Definition of Proximate Cause
- Case law and statute law
- Understand why it is important
- Certificate, C1 and C2 questions
- What answers should include



## Proximate cause is:

### Pawsey v Scottish Union and National (1908)

- “The active and efficient cause that sets in motion a train of events which brings about a result without the intervention of any force started and working actively from a new and independent source”.

### Marine Insurance Act 1906 Section 55

- “...unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss which is not proximately caused by a peril insured against”.



# Why Proximate Cause is Important

- How this relates to the Policy
  - Perils
  - Exclusions
  - Burden of proof
- Consider what was meant to be covered.
- Take account of:
  - Peril
  - General Exclusions
  - Peril exclusions



# Operation

- Loss not caused by Insured Peril
  - **No liability for the loss**
- Loss caused by an insured peril and does not fall within an exclusion
  - **The Insurer is liable for the loss**
- Loss caused by an insured peril but falls within an exclusion
  - **No liability for the loss**



# Treating Customers Fairly

- Financial Ombudsman Service
  - Two tier test “but for a common sense approach”
- Concurrent – Exception prevails if causes are interdependent (neither would have caused the loss without the other.)
- Immediate and intervening causes
- Some decisions by the Courts
  - Wayne Tank & Pump Co Ltd v Employers’ Liability Insurance Corp. 1973
  - Winicofsky v Army & Navy General Insurance Association Ltd (1919)



# Certificate

- Proximate Cause is:
  - The excluded cause
  - The peril causing the damage
  - The remote cause
  - The nearest cause



# C1

- Provide the **definition** of proximate cause, **explain** the importance of it in relation to determining policy cover.
- Group work





## C2

Mrs Archer submits a claim for the loss of a wedding ring.

The ring went missing whilst her home was unoccupied due to damage following a flood.

Whilst her home was drying out with the use of dehumidifier it seems the property was entered and a theft took place.

Explain the relevance of determining the proximate cause and detail your consideration as to the proximate cause. The policy excludes theft from an unoccupied property.

Group work

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