

50 predictions: Property

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Playing tag - expect claims for damages for late payment in policy coverage disputes

We anticipate policyholders tagging claims for compensation for late payment of insurance claims onto most coverage disputes to bolster their negotiating strategy. Allegations extending to 'bad faith' are unlikely to be far behind. Insurers need to ensure that their own claims handling procedures, and those of their agents, protect them as far as possible. In practice, it may be difficult to separate out delay by policyholders, leading to increased negotiated settlement payments. The limitation period of one year will also see claims files hanging around for a further year after settlement of the underlying insurance claim, unless well drafted forms of discharge or settlement agreements resolve both the insurance claim and any potential for a claim for late payment.

Escape of water claims may be the new burgeoning area of fraud

Insurers should be on high alert for escape of water claims that may not be as they first seem. Claims resulting from burst or leaking pipes or faults in plumbing systems topped the list of domestic claims in the ABI's Key Facts in November 2016. This may not just be down to the weather and general lifestyle changes resulting in more white goods and wet areas. Insurers and their advisers need to pay close attention to the detail of these claims and obtain as much information as possible, including financial circumstances, to accurately determine the date and cause of the damage. A leaking tap is an easier route to recovery both in terms of action and risk to the policyholder than arson. This is also a good example of where the internet of things could prove a game changer, especially predicting leaks or giving early warning that a leak has occurred before it causes extensive damage.

Law firms will increasingly adopt contingency fees to pursue clients' subrogation claims

The current and much criticised Damages-Based Agreements Regulations 2013 permit law firms to use standard damages based agreements (DBAs) but not any form of so-called hybrid arrangement. Under a hybrid DBA, even if a case is unsuccessful, a law firm would be entitled to at least a reduced fee. The result of the prohibition has been an almost zero take-up of DBAs by lawyers. With the Government remaining unwilling to make any changes to the rules, creative third-party funders and insurers have stepped in to develop several useful funding products which are legitimising the use of hybrid DBAs through another route. We predict that law firms will increasingly work with funders in order to offer insurer clients pursuing subrogated recoveries risk-free DBAs, alongside bespoke funding products.

The use of drones will move beyond visual line of sight

The true potential of drones in property insurance will take off as the Government's consultation on the safe use of drones lays the foundations for a developed drone market. In the US, insurance is already the fourth largest market for drones, behind industrial inspection, real estate and agriculture. Drones will play an increasing role here through the whole insurance cycle, offering closer, safer, quicker and cheaper site imagery. Opportunities include surveying new risks, monitoring and maintaining infrastructure, mapping at-risk locations with a view to proactively contacting policyholders and assessing damage. There is, however, a real need for a regulatory framework that addresses the clear challenges of safety, security and privacy. Awareness and communication will also be key and insurers need to ensure that they are fully engaged in the process.

Key developments

- [Insurance Act 2015](#)
- [Riot Compensation Regulations 2017](#)
- [Leeds Beckett University v Travelers Insurance Co Ltd](#)
- [R&S Pilling \(t/a Phoenix Engineering\) v UK Insurance Ltd](#)
- [Zurich Insurance Plc v Maccaferri Ltd](#)

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