



The Policyholder in the Mitigation and Recovery Process



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Anthony and Sarah lead Eversheds' subrogated recoveries team. They have 19 years experience working with insurers and loss adjusters to maximise recoveries and reduce claims spend.



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Sarah is the founding chair of the Subsidence Forum's legal sub committee which is now in its second year.



Outline

- What goes wrong?
- Getting mitigation back on track
- Legal options for reluctant tree owners
- Managing policyholders where mitigation is impossible
- Managing policyholders through the recovery process
- Q&A

The Context - TCF

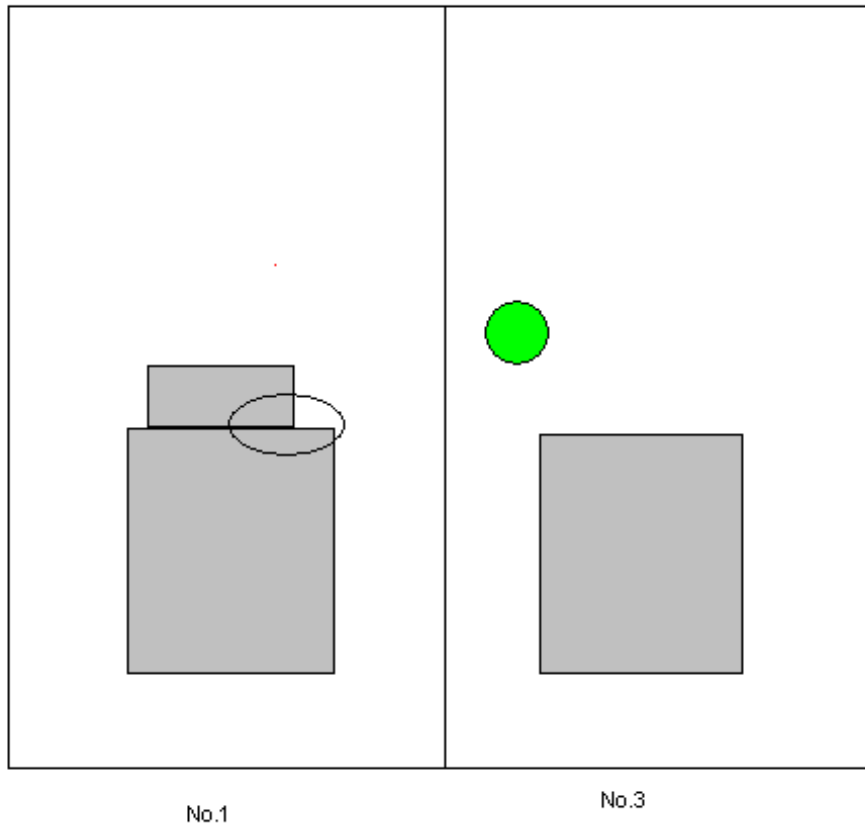
- **Outcome 1:** Consumers can be confident that they are dealing with firms where the fair treatment of customers is central to the corporate culture.
- **Outcome 3:** Consumers are provided with clear information and are kept appropriately informed before, during and after the point of sale.
- **Outcome 5:** Consumers are provided with products that perform as firms have led them to expect, and the associated service is of an acceptable standard and as they have been led to expect.

The Context - TCF

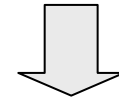
By December 2008 firms should be able to demonstrate that senior management have instilled a culture whereby:

- they understand what the fair treatment of customers means; ... expect their staff to achieve this at all times; and where ... errors are promptly found, put right and learned from;
- be appropriately and accurately measuring performance against all customer fairness issues ... and be acting on the results;
- be demonstrating ... they are delivering fair outcomes; and
- have no serious failings ...

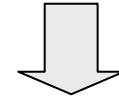
Scenario – Mrs Jones



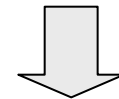
- Mitigation letters sent to the occupier



- Delay



- Complaint



- Referral to Solicitor

What went wrong?

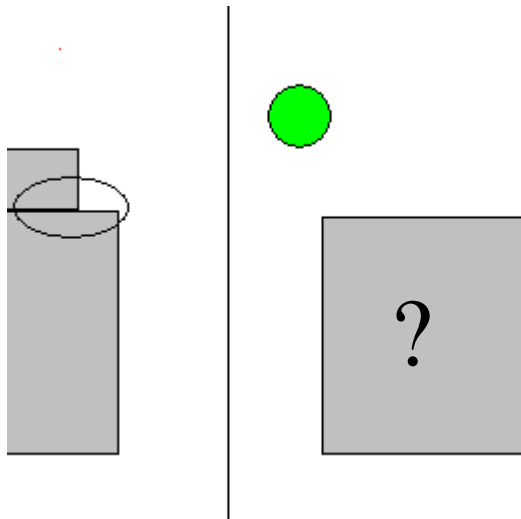
- Setting expectations
- Managing delay
- Effective communication with third party
- No escalation



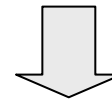
Getting the claim on track:

- Who is the solicitor working for?
- What obligations does that create?
- What advice can be given?
- What expectations will be created?

Getting the claim on track:



- Identify the tree owner
- Make contact
- Establish their motivations
- Selling a solution
- Keeping the policyholder informed



- Dealing with refusal



The “toolbox”: options for recalcitrant tree owners

- Injunctions
- Self help
- Target the tree owner’s insurers
- Improving the evidence
- Contributing to costs
- Threat of recovery – ABI agreement?
- “Independent” experts
- Site meetings



BUT WHY? – dealing with refusal to remove the tree.

- *“But why can’t you issue a claim?”*
- *“Why didn’t you underpin before?”*
- *“What do you mean you still wont underpin?”*
- *“I’ll never be able to sell my house”*
- *“Who is dealing with my claim now?”*

The Recovery

- What must the insurer do for its policyholder?
 - Can't find the insured?
 - Pursue uninsured losses after insured losses settled?
 - Share a partial recovery?
 - Pay all the costs?
 - Take all the risk?

The Recovery

- What must the policyholder do for the insurer? – typical problem areas:
 - Refuse to lend their name to the action
 - Claim unreasonable losses
 - Refuse reasonable settlements
 - Fail to evidence their loss
 - Refuse to give evidence
 - Lose their documents
 - Change their story – the cracks actually started in ‘76

The Recovery

- How do other stakeholders affect the policyholder's experience?:
 - Determine expectations of policyholders
“I was told I would get it all back”
 - Quality of evidence (technical and loss)
- =
- early settlement



Q&A