

## Insurance Questions – Answered by Insurance Council New Zealand

### Collated SME questions

1. **Expectation gap** - between what the policyholder believes they were sold and what appears to be the responding cover. This is most notable with Business Interruption claims, especially seemingly arbitrary discounts for depopulation.

***Q – How is the industry responding to narrow this expectation gap?***

Insurers have put a lot of work into informing their brokers on issues relating to Business Interruption claims. Updates have been provided and, particularly, specific material relating to issues around the cordon and CBD area of Christchurch have been provided to brokers with the encouragement of insurers to pass this information on to insured parties.

***Q – Would you agree with brokers in saying that depopulation adjustments made by insurers should be negotiated?***

Insurers will always encourage brokers to find the best solution for their customers. Insured Cantabrians should talk specifically to their insurance broker about what the policy means and the best possible outcome for them. Insurers have indicated throughout this process that they will attempt to be as flexible as possible and find solutions wherever possible for the insured Cantabrian.

2. **Slow paying insurers** - Some policyholders have not had claims settled from September 2010. This is having a serious impact on cash flow and ability to trade. Policyholders are sometimes unaware of how to claim non-specific progress payments.

***Q – Are you confident the industry is doing all it can to settle valid claims in a timely manner?***

The insurance industry is aware of some delays in payments due to the sheer magnitude of this event. The insurance industry expects to pay well over \$10 billion in claims. The process of settling claims has been complicated by the status of land in the domestic area and the sheer scale of damage in the commercial sector. However, the insurance industry will continue doing all it can to settle valid claims as quickly as possible.

***Q – Could insurers pay more non-specific progress payments to help the economy?***

Wherever possible, insurers are attempting to pay progress payments to insured Cantabrians through their brokers or directly. Insurers are conscious that there is a very serious issue of people being unable to continue working without some progress payments, and this relates to both commercial businesses and tradespeople.

***Q – What percentage of your reserved claims have been settled or partly settled?***

The insurance industry has not collated any data on percentages of reserve claims which have been settled or partly settled, except to encourage all insurance companies and insurance brokers to make payments wherever possible, as quickly as possible.



3. **Settlement Risk** - Policyholders are wary of accepting settlements before the end of the indemnity period. There needs to be greater understanding around issues such as accepting non-specific progress payments without prejudice, full and final settlement and coverage of subsequent consequential damage.

***Q – What is the insurance industry doing to educate policyholders and alleviate concern around acceptance of claims settlements?***

The insurance industry is working with all its insurance brokers and encouraging them to speak to insured Cantabrians about any concerns that they have particularly relating to the acceptance of claims. The insurance industry is conscious that this is a critical area for insured Cantabrians, and individual companies are being encouraged by the Insurance Council and insurance brokers are being encouraged by the Insurance Brokers' Association of New Zealand to ensure Cantabrians about this and a wide range of other issues.

***Q – What is the industry's stance on damage subsequent to the earthquake activity, e.g., a neighbouring undamaged building subsequently damaged in demolition of a condemned building?***

The insurance industry's stance on a range of issues will be difficult to gauge in a general form. It will relate to the individual details of insurance policies. Most insurance companies have slightly different clauses relating to different circumstances in their insurance policies. We would encourage the insured Cantabrians to speak directly to their insurance brokers and establish the exact details of the policy that they have been sold.

4. **Uncertain Quantum** - Inability to quantify claims due to inability to access premises.

***Q – In the case of plant and equipment being in a building expected to be inaccessible for the foreseeable future and then, possibly demolished, is a claim payment now not unreasonable?***

This will be a matter for individual insurance companies. Many insurance companies are seeking to make payments as quickly as possible, or once they have established the full details of a claim. If there are any delays this may be due to the fact that buildings are inaccessible; however, in these circumstances all efforts will be made to establish the validity and quantum of the claim, and make payments where possible.

***Q – What is the inaccessible period before a claim payment on plant and equipment will be paid?***

The inaccessible period before a claim payment on plant and equipment will be paid will be determined on the policy currently in place. This is a question that insurance brokers should be able to provide the answer for, and will change depending on the circumstance of the claim and reason for the inaccessibility.

5. **Professional Advisors** - Lack of involvement of business professionals in claim preparation, such as brokers, claim preparers, loss assessors, accountants, lawyers, etc. Policies often allow for claims preparation costs. Supply of these skills is inadequate.



**Q – What can be done to encourage policyholders to use their professional advisors more?**

The Insurance Council and the Insurance Brokers Association of New Zealand consistently encourage insured parties to work through insurance brokers, or professional advisers, to interpret their policies and to identify their needs as insured Cantabrians. We would encourage all business organisations to encourage their members to use professional advisers more, to question them more, and to engage with them more readily about the details of their policies.

**Q – As brokers often appear to policyholders as a commission sales force, what can be done to remind policyholders that a broker has a duty of care and a contractual responsibility to the policyholder in the first instance?**

All insured Cantabrians that enter into a relationship with an insurance broker will be made aware that the broker has the Duty of Care and a contractual responsibility to the policy holder. Insured Cantabrians should question their insurance brokers if they are not made aware of these responsibilities, or if they are not provided to them. Insurance companies also encourage all brokers to outline their responsibilities to the policyholder, and where this is not done to the insurer's satisfaction may result in the insurer not dealing with the broker in the future.

**6. Uncertain progress plans - Policyholders are not receiving clear plans of how their claims will progress****Q – Given the current uncertainty and sheer scale of work in the industry, what is reasonable for a policyholder to expect in terms of a progress plan?**

Given the sheer scale of the disaster in Canterbury, the ability to provide policyholders with a progress plan is difficult at present. All efforts will be made to provide progress plans, but there are a wide range of issues which will need to be clarified, including accessibility to the site, specific damage to the site or to the business, and a wide range of other issues. We would encourage policyholders to let their insurance broker know, as soon as possible, the details of difficulties they are having looking at a progress plan going forward, and outlining what their critical necessities are.

**7. Uncertainty of cover post-earthquake – Policies, when they are available, are being only being offered at rates that are prohibitive for business owners.****Q – Can you assure the public that adequate and affordable cover will be available in the future?**

The insurance industry has sustained a huge claim for the Canterbury earthquake; we estimate the total cost will reach well over \$10 billion for claims. There have been a number of companies that have indicated very publicly that they are able to meet all claims. There are other companies, because of their structure, that have not made public statements to this effect, but no companies so far that are members of the Insurance Council have indicated they are unable to meet their obligations, except AMI Insurance which has now received a full backing from the New Zealand Government.

**8. Failure of insurers – receiverships such as Western Pacific.****Q – How is the insurance industry regulated?**

The only insurer who has failed at the current time is Western Pacific which was not a member of the Insurance Council. In the past the insurance industry has been lightly regulated, but is moving toward a much more thorough form of regulation, which should give greater confidence to insured Cantabrians.



**Q – Are other insurers known to be in difficulty?**

There is no indication that other insurers are in difficulty. Almost all insurers have indicated they have adequate reinsurance in place, and are able to meet all their obligations.

**Q – What should a policyholder do if their insurer goes into receivership?**

If an insurer did go into receivership, the policyholder should contact the receiver immediately and also their insurance broker to undertake a comprehensive response to that action.

**9. Reduced Confidence – A growing lack of confidence in the insurance industry.****Q – What is the industry doing to maintain policyholder confidence? There are concerns that if claims are seen to be not settled fairly in a timely manner more people will choose to be uninsured or underinsured in the future.**

It is a real concern to the insurance industry that people may choose to not insure, or under-insure in the future. The insurance industry and the Insurance Council will be encouraging people to maintain insurance at the fullest level they possibly can. All the experience of the Canterbury earthquakes is that people that are not insured, or under-insured, suffer far greater losses than those who are adequately insured. We will be pushing this as a very high priority through the Insurance Council, the Insurance Brokers' Association of New Zealand, and all insurance companies and insurance brokers over the next number of years.

As to claims being settled fairly and in a timely manner, this will be a high priority for the insurance industry, but the sheer magnitude of this event means that what would previously be deemed a timely manner, may take a little longer in the future. However, we remain confident that all legitimate claims will be settled fairly.

**10. Unpaid rent - Insurers are insisting that landlords of inaccessible buildings pursue tenants for unpaid rents before loss of rent insurance responds. This already includes threats of legal action.****Q – Can you please explain what the insurance industry believes is fair with respect to recovering unpaid rents when buildings have been inaccessible or unsafe?**

The insurance industry is unable to give a general answer to the question of recovery of unpaid rents. This will be determined by the individual contracts. Insured Cantabrians should contact their insurance brokers immediately on this matter and identify what the contents of the policy provides for them in terms of unpaid rents when buildings have been inaccessible, or unsafe.



## Forum Questions

### Insurance Questions – Answered by NZI

***Q- There is no breakdown of part payments from insurance companies – the money is deposited in the bank with no paperwork to provide clarity of payments. Why?***

Where possible, insurers will attempt to provide a breakdown of part payments. However, there may be situations where payments are made to assist insured parties as quickly as possible and the money is simply deposited for this reason, with paperwork which takes time to prepare being provided at a later date.

***Q - There is a lack of resources to handle the claims process so why do insurance companies require the same information to be given 3-4 times for the same issue?***

The sheer pressure on insurance companies and their resources can mean there is some duplication on information required by insurance companies. The insured Cantabrian should deal only and specifically with their insurance broker on this matter, who is the key conduit between them and their insurance companies.

***Q- Why are insurance companies not paying out and they have given us no information as to the reason why not?***

There may be some delay in insurance companies paying out, but there has been no indication that insurance companies are refusing to pay what are legitimate claims under the insurance policies. If insured Cantabrians believe they are not being paid what they deserve, they should contact their insurance broker immediately and ask for an explanation of this.

***Q -Is there a government mandate to intervene with insurance companies?***

There is no government mandate to intervene with insurance companies. The government has indicated it will allow insurance companies to work on a purely commercial basis. However, an exception has been made by the government who was approached by one insurance company, AMI, to provide a government backing. This has been provided. All other indications from the government is that it will not intervene with insurance companies, and they must make their best commercial decisions according to the policies they have issued.

***Q -Why are the insurance companies not reporting back to the business community? Insurers need to be accountable for the information on the claims process.***

Insurance companies are reporting back to the business community. This response is part of that reporting back. A wide range of meetings have been attended by insurers and insurance brokers to the business community right across the Canterbury region, and insurers have worked very hard to be accountable for the information on the claims process. This will be a matter for individual companies and should be pursued with them individually.

***Q- Why are insurance companies demanding proof of material damage when the authorities are refusing access into buildings that are in a cordoned area due to safety?***

Insurance companies may well ask for proof of material damage when a claim is made for commercial buildings that are cordoned off due to safety. However, insurers have indicated, through their brokers, that they understand the difficulties that insured Cantabrians are having with access to buildings, and on many occasions have shown a wide-range of flexibility. In addition to that insurance companies are occasionally in the same situation as the insured Cantabrians and that they too are unable to access properties, but will go through the normal process of requiring material evidence if it is at all available. If insured parties have difficulties with this process, they should relay their concerns to the insurance company through their insurance broker.



***Q- What constitutes loss under a policy? Such as timeframes – if I can't get into my business for 6/8/12months+ or even ever.***

What constitutes a loss under a policy will determine on the terms and conditions of that policy. Take professional advice at all times when taking out commercial insurance through a recognised insurance broker, and look at the details of the policy, particularly the entitlement you have as an insured party.

***Q-How to deal with the knock on effect – the supply chain – unable to pay bills because we haven't been paid and surely business interruption insurance covers this but we are not being paid?***

Issues around Business Interruption are complex and varied. Wherever possible insurers are making full payments under the policy for Business Interruption covers. However, the sheer magnitude of the event, the inability to access buildings, the cordoning off of areas within the CBD, and other matters have made this far more complex than normal. Contact your insurance broker for details of what you are entitled to under the policy.

***Q- Why is there a lack of communication from the insurance companies on process?***

There has been a wide range of communication from insurance companies on process. The process of making claims has not changed despite the enormous magnitude of this event. The process in simple terms for you, as an insured Cantabrian, is to contact your insurance broker who will contact the insurance company and relay back to you cover, response, approach, and the claims process going forward.

***Q- Why are insurance companies being cautious on paying out on the policy? We have had a part payment which only helped us minimally we need our full pay out.***

Insurance companies are being cautious on paying out on the policy because often they are not aware of the material evidence around a claim. They may not be able to inspect a site, they may not be able to get to a building, they may not have the evidence they would normally require on paying out for a claim. However, despite this, insurance companies have frequently made a payment 'up front' to assist insured Cantabrians and then worked to pay the balance of their full claim as quickly as possible. Many of the part payments have been made without evidence of a legitimate claim, but in good faith that the claim is a legitimate one, and the payment has been made to assist insured parties.

***Q- We are concerned if our building is demolished the insurance companies will only pay indemnity and not the full value.***

What the insurance company will pay through the broker for the demolition of a building will determine on the policy in place, the circumstances of its demolition, and a number of other factors which will come into play. Insurance companies will pay out the full value of the building according to the details of the policy.

***Q - I have business interruption insurance, the Insurance company will only pay 10%, because of the cordon there is no interruption for recovery damage, why?***

With Business Interruption there are a wide-range of insurance responses to Business Interruption claims. Some insurance companies will pay slightly less than others. This will be determined by specific circumstances of the claim and the details of the policy under effect.

***Q -Why are insurance pay-outs taking so long?***

Many building policies are subject to reinstatement conditions and settlement will be by way of a rebuild or repair rather than a cash pay-out. In some instances, we are waiting on engineering decisions for repair or demolish in order to determine the costs to either repair or demolish and replace property.



Assessments of plant and stock losses have been difficult for buildings within the CBD however insurers are generally willing to make progress payments based on loss adjuster's advice of the visible damage.

The settlement of business interruption claims is dependent on receiving the financial data requested by the business interruption loss adjuster. Provided this information is provided insurers are prepared to make progress payments within the terms of the policy.

***Q -Why an insurance company has not given partial or interim payments?***

My advice would be to query directly with your insurer or broker .

As advised above, insurers are willing to make partial progress payments based as the extent of the loss becomes apparent.

***Q- Why are payments linked to contents in buildings in the red zone which cannot be accessed?***

Most buildings within the red zone can now be assessed to some degree and partial payments can be made based on those assessments.

***Q -Why are there differences in engineers reports from insurance company engineers to building owner engineer reports, as this changes how and what repairs are done?***

Insurers are generally keen to use the same engineer as the building owner to save duplication. The insurer will however want to assess the economics of repairing the building based on the cost of repairing insured damage. Some costs such as strengthening the building in addition to repairing the damage may not be covered by insurance.

***Q - Why can't new insurance policies be underwritten when businesses have moved to new premises?***

Insurers are generally agreeing to do this for existing clients on a case by case basis and subject to assessment of the new premises.



## Commercial Leasing

### Leasing Questions – Answered by Duncan Cotterill

***Q- We are tenants in a building in Waltham, our lease runs through to Sept 2012. Standard ADLS lease.***

***The building has damage which must be repaired and will require us to move out completely for a period of approx 5 months. Does this mean the building is deemed to be untenable based on the 20% level of unusable that was talked about last night, and does that mean we can get out of our current lease and move on to find a permanent property to lease?***

***When is the lease deemed to be cancelled in a 4 year lease term? ie is it after 8 months of no trading? Or 12 months etc. The building is damaged and may take 9 months to fix.***

This will be a matter of specifics that the industry, as a whole, cannot answer. These questions should be put specifically to your insurance broker and answers provided.

### CERA Questions - Answered by CERA

***Q- Our building has been red stickered because of the building next door and as a result all our tenants have had to relocate. What more can we do to resolve demolitions more quickly?  
Contact should be made with CERA immediately to outline the circumstances of the red stickering. If you are unhappy with the fact that the building is red stickered, you should raise this issue with CERA and question the reasons for its red stickering.***

***Both myself and our neighbour have heritage buildings and both have a demolition notices can we share the notice to speed things up? We have requested this several times but have heard nothing from CERA.***

Demolitions will take place as soon as possible. However, the exact status of the building needs to be established, and in residential areas the land underneath the building needs to be clarified in terms of its status before full demolition orders can be given.

If you have Heritage Buildings side-by-side with both having demolition notices, you should address CERA as quickly as possible, notify your insurer that you are doing so, and seek some sort of support from your insurer when approaching CERA if this assists. However, the insurance industry will be following the guidance of CERA on these issues.

***Q-I am a restaurant in the red zone and the building got a yellow sticker and I have 5.5 years contract remain with landlord, in this case could I terminate contract earlier or have to keep the contract?***

The industry is not able to answer this question due to not being aware of the terms of contract you have with the landlord. Clearly your termination clause within this contract will be the key, and whether in fact this is affected by other conditions including the fact that there is a yellow sticker applied to a restaurant in the Red Zone.

