



Consultation on reform of the Riot (Damages) Act 1886 (RDA)

Response of the Association of British Insurers (ABI)

The ABI

The ABI is the voice of the UK insurance industry, representing the general insurance, protection and long-term savings industry. It was formed in 1985 to represent the whole of the industry and today has almost 300 members, accounting for some 90% of premiums in the UK.

The insurance industry is a global leader and national asset. Insurers manage assets of £1.8 trillion and contribute £10bn in taxes to the government. The products and services delivered by insurers are essential for the functioning of our economy and society. Insurance helps individuals, businesses and society manage when the worst happens and disaster strikes.

It is a vital part of the UK economy, managing investments amounting to 24% of the UK's total net worth and contributing the fourth highest corporation tax of any sector. Employing over 275,000 people in the UK alone, the insurance industry is also one of this country's major exporters, with a fifth of its net premium income coming from overseas business.

Introduction

The insurance industry played a major role in responding to the riots that took place across England in August 2011, with ABI members handling an estimated 2,250 claims at an estimated cost of £170 million. The industry's focus has been on its customers, and to help those individuals and businesses affected get back on their feet as quickly as possible. The ABI and our members have also been closely involved in the reviews into the riots which followed, including the independent review conducted by Neil Kinghan published on 8 November 2013, which was the precursor to this public consultation.

We welcome the opportunity to respond to this public consultation on an issue that is crucial to businesses across the country, to emphasise the views of our members that there is a need to modernise this century-old piece of legislation. It is vital that the Act continues to protect both individuals and businesses from losses in the event of a riot, which is the fundamental principle underlying the ABI's responses. Some of the proposals in this consultation would seriously threaten the Act's ability to do this.

Executive summary

We have significant concerns with the contradictory position that has been adopted by Government whereby it intends to retain the principle of police accountability for riot damage in a new Act and then proposes a series of reforms that will effectively hollow out this principle to such an extent that the Act will become meaningless for the majority of businesses. Our response evidences that if a turnover cap of £2million is applied to the Act and the recovery of consequential losses are excluded, only the smallest businesses will be



able to rely on its provisions; even those very small businesses will struggle to survive as they will receive no compensation under the Act for loss of trade; and for every £10 paid out in compensation from the August 2011 riots, only an estimated £1 would be paid out under the reformed Act. Such drastic change, denigrating a principle that has been upheld in legislation for 130 years, could significantly impact on premiums, lead to the incorporation of excesses for riot into certain business policies, or the exclusion of riot in certain areas (as is currently the case in Northern Ireland where the Act does not apply).

The Government's position on motor vehicles is equally contradictory and concerning. In the consultation the Government states that it accepts the recommendation of the independent reviewer that damage to vehicles of any type should be included, but then, proposes measures to limit this to vehicles with third party insurance, which is only 4% of UK motor vehicles. In reality, Government is not following the recommendation of the independent review and is proposing to exclude 96% of motor vehicles from the scope of a modernised Act.

Our full response refers to the sections and questions as set out in the consultation document.

SECTION 2: LIABILITY AND DEFINITION

2.1 Liability

The ABI strongly supports the intention outlined in section 2.1 of the consultation to *“adopt the recommendation of the independent reviewer that the principle of police accountability for riot damage should be retained in a new Act.”*

The principle of police accountability is a long held and important one, dating back centuries in English law. The first that we are aware of which made specific provision concerning liability for damage caused in the course of a riot is the Riot Act 1553, over 450 years ago.

The 1886 Act itself was passed in the immediate aftermath of the Trafalgar Square riots which broke out in London on 8 February 1886. Due to a breakdown in communication, the police failed properly to anticipate the intentions of the rioters, marching to defend Buckingham Palace and the Mall, while the rioters rampaged unimpeded down Pall Mall.

The consultation also states that *“police action is intrinsically linked to preventing or quelling such disturbances”*, a view that the ABI strongly agrees with. The principle that the police should be liable for damage resulting from a riot, as their actions are intrinsically linked to the damage that is caused by such disturbances, has underpinned riot legislation for over a hundred years. This intrinsic link between the police and riot damage means that those individuals or businesses affected by riots, through no fault of their own, should be entitled to compensation from the police.

Unfortunately, within this section of the consultation, Government seeks to qualify the nature of the police's liability by suggesting that only individuals and very small businesses should be entitled to compensation. Diluting the principle of police liability runs contrary to the longstanding principles of English law, and as such threatens the existence of small businesses in areas susceptible to riots and civil disturbances.



Our view is that police action in preventing or quelling riots does not, and should not, discriminate according to the size of the business and that the principle of police liability therefore should not be contingent on the size of the business affected. Government needs to fully retain the principle of police liability in a reformed and modernised Act, which provides compensation for all individuals and businesses affected by riots.

2.2 Definition

Question 1: What definition of ‘riot’ do you think should be used in future’?

b) Solely use the definition in the Public Order Act.

The ABI’s view is that the definition in the Public Order Act is better than the existing definition. This is largely because the words *“riotously and tumultuously”* within the existing Riot (Damages) Act 1886 do not help to define if a riot has occurred. The archaic nature of such words can lead to confusion and misinterpretation.

The Public Order Act 1986 defines the offence of a riot as when *“12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.”* We believe this represents a reasonable definition of a riot, but we would also promote the creation of guidance to support the definition and ensure clarity with its interpretation.

Guidance is important because issues have been caused in the past as a result of overly strict interpretations of the Public Order Act by some police authorities, who have used the argument that, because 12 people did not actually enter a damaged building, a riot therefore did not occur. The Public Order Act definition does not state that at least 12 persons must enter an individual premise or be directly involved in causing damage to that premise, for it to be considered riot damage.

We would support guidance that clarifies that a riot zone would be declared if there are 12 or more persons using or threatening unlawful violence for a common purpose. Where further damage occurs that is linked to such a group, this should also be treated as damage resulting from the same riot, even if the number of people directly involved in that damage happens to be less than 12.

A strict interpretation which states that 12 people have to enter a property or premises and cause damage could lead to situations in which hundreds of people are rioting outside a building, but because less than 12 people enter and cause damage to a specific building, it is not defined as riot damage. We do not believe that this is reasonable.

We note that in Northern Ireland, under the Criminal Damage (Compensation) (Northern Ireland) Order 1977, there is a provision to provide compensation from the Department of Justice where there is physical damage to property *“caused by the unlawful assembly of three or more persons or by terrorist acts”*.



2.3 Making decisions on riot areas

The ABI is concerned that leaving the responsibility of deciding whether a civil disturbance qualifies as a riot or not to Police and Crime Commissioners (PCCs) (and in London the Deputy Mayor for Policing and Crime) could create a conflict of interest. PCCs are liable for the cost of riot damage, but not for costs resulting from damage as a result of, for example, civil commotion, strikes or political disturbances and (whereas there is no question about the integrity of PCCs) it would be beneficial for them if an incident was not determined as a riot.

We support an independent determination of a riot or, failing that, an independent appeals process whereby an individual, business, insurer, or community can contest the determination of a PCC.

Question 2: Which of the following approaches and targets do you think should apply to PCCs for determining which areas qualify as riot areas.

b) PCC to determine ‘core riot zones’ only within seven days. In cases outside of ‘core riot zones’ a target for resolving the claim will apply from when the required evidence is received from a claimant.

Our support for an independent process to determine riots or ‘core riot zones’ is outlined above. In relation to timescales we broadly support the suggestion in the consultation that core riot zones only should be determined within seven days.

The ability to declare riot zones quickly should give reassurance to those affected that they can begin the claims process through the RDA. A delay to this process beyond seven days, when a riot has clearly occurred, would reduce the efficiency of the compensation process. A quick determination is also more likely to mean the claim can be settled quicker, thereby reducing overall costs.

We believe it is important that applications for compensation under the RDA are not limited to those within declared riot zones, or core riot zones. If supporting evidence from potential claimants and / or third parties of riot damage outside a declared riot zone can be produced then there should be provision for these claims to fall within the scope of the Act. We accept that this evidence may take longer than seven days to gather and, as such, the same seven day limit should not apply to these cases, as it could result in valid claims for riot damage being unfairly rejected.

We do not believe that openly declaring a riot zone would encourage fraudulent applications as a rigorous process would still have to be followed in ensuring the validity of the claim. Often the loss adjuster for a claim will be able to play a role in identifying potential fraud, and insurers have robust fraud prevention systems, using fraud indicators at claims notification stage to help flag potentially fraudulent claims.

The consultation refers to both ‘riot zones’ and ‘core riot zones’ but does not make clear if there is a difference in these terms. Clarity is required on this point.



SECTION 3: ENTITLEMENTS UNDER A NEW ACT

3.1 Vehicle Damage

Section 3.1 begins by confirming that Government ‘accepts the recommendation of the independent reviewer that damage to vehicles of any type should be included under the Act’, and then describes a process which would exclude 96% of vehicles in the UK, which is counterintuitive and completely unacceptable. This position is completely at odds with the Government-agreed principle underpinning their reform of the Act – that the police retain the liability for riot damage. It is also at odds with attempts to modernise the Act which should reflect an age in which vehicles are commonplace, unlike the period in which the original legislation was enacted.

Government’s intention outlined in the consultation is for the Act to cover only third party insured motor vehicles, as it is not minded for the Act to encompass those vehicles where insurance cover for riot is in place. Given that 96% of UK motor insurance customers have comprehensive cover as opposed to third party, the Act will cater for such a small minority of motorists that it borders on becoming useless. The proposal does not fit with the intention that damage to vehicles “*of any type*” should be included under the Act, and at no point does the independent review suggest that a modernised Act should only apply to a very small proportion of cars and other vehicles.

If changes are introduced that mean cover under the Act is only provided where insurance cover does not provide compensation, insurers may consider excluding riot damage from comprehensive motor insurance altogether, as the Act provides no opportunity to recover costs.

We agree that compensation should be limited to claimants who can evidence that they are the registered keeper of the vehicle and that, at the time of the riot, they had either the minimum level of insurance or declared the vehicle off road. Repair costs should not exceed the depreciated value of the vehicle, in line with the private insurance market.

We believe clarity is needed on whether a reformed Act will encompass fleet vehicles or motor vehicles owned by a car dealership, for example, as business stock.

Question 3: What arrangements and safeguards against fraud do you think should be made for claims for motor vehicle damage?

Organised motor insurance fraud typically relates to personal injury claims and, to a lesser extent, from replacement vehicle hire costs. Personal injury claims are not proposed to fall within the scope of a reformed Act and this will, therefore, limit the opportunity for organised fraud. At this stage it is unclear whether proposed amendments to the Act would provide an opportunity for individuals to reclaim the cost of a replacement vehicle whilst remedial work is carried out, but the opportunity for organised fraud relating to vehicle repair costs alone is relatively low.

The risk of opportunistic fraud for motor vehicle damage following a riot is also relatively low. Such fraud is most likely to arise from a submission of claims for vehicles damaged outside the geographical area of the riot, or at a different time. This could occur where the customer



is underinsured due to deliberate or reckless misrepresentation at the underwriting stage, uninsured at the time the damage was caused, or as an attempt to avoid an excess applied by their motor policy or maintain a no claims record.

The insurance industry has invested heavily in fraud prevention measures to ensure that genuine claims are paid expeditiously and honest motorists do not subsidise dishonest claimants. Insurance claims handlers may use a variety of tools to identify fraud, including the use of fraud management databases and analysis of behavioural characteristics. The Insurance Fraud Bureau has been established to tackle organised and cross-industry motor insurance fraud and would be best placed to identify any emerging fraud risk from riot damaged vehicle claims.

The Government should consider whether claims under the RDA for vehicle damage could be recorded on the Claims Underwriting Exchange hosted by the Motor Insurers' Bureau. This would ensure that vehicle owners are not able to submit multiple claims for the same vehicle, and would act as a further deterrent to claim fraud.

3.2 Payments made by charities and Government

We agree with Government and the independent reviewer that the law should be made clear with regard to riot compensation for victims that also receive a charitable payment.

Government sets out a position at section 3.2 that "*claimants should not receive public funding twice for the same purpose.*" We agree with this position, but think it is important that it also applies to insured settlements so that claimants do not receive riot payments from a government or local authority fund for aspects outside the scope of the RDA, but which are covered by the claimant's insurance. This will avoid the opportunity for people or businesses to profit from a riot by receiving double payments.

3.3 Replacement value

Question 4: To what extent do you agree or disagree that riot victims should be compensated on a new-for-old instead of an indemnity (old-for-old) basis?

b) Tend to agree.

Insurers often replace damaged or stolen items on a new-for-old basis as this simplifies and expedites the claims process, which in turn keeps claim costs and premiums low. In some cases an identical replacement may no longer be available so this provision ensures that the insured can be indemnified. It is unclear from the consultation which items the claims administrator would apply this approach to.

It is important that this section of the Act does not extend beyond, or in any way dilute, the existing common law principle of indemnity. This measure should not, for example, provide an opportunity for regeneration of buildings that have fallen into disuse and disrepair, thus putting the owner in a substantially better position post-riot than pre-riot.



3.4 Consequential Loss

The insurance industry has consistently expressed the view that compensation for consequential losses is essential for the survival of businesses where riot damage restricts their ability to trade. The absence of a provision within the Act for loss of trade would seriously impact on businesses, which have had to close their doors and cease trading because of property damage or loss of stock. The Government's current position that loss of trade should not be provided for any business, no matter the size, under a reformed Act will leave those without business interruption insurance without any compensation. If businesses in riot affected areas cannot re-open because they receive no compensation under the Act for loss of trade, the implications for the local economy of these areas are stark. Indeed this was shown after the August 2011 riots when a number of businesses affected failed to re-open.

Small businesses affected by a riot, in many cases, cannot trade during prolonged periods of the repair process. This means that they are unable to make the profits they would otherwise expect, meaning the overall asset value of the business, beyond the simple value of the damaged property, reduces in that period. It is a valid interpretation of indemnity, and one that is typically applied in commercial insurance policies, for compensation to include payments to return a business to what it would have been worth had the incident and damage not taken place, which would mean including consequential losses such as business interruption. Following the August 2011 riots ABI members paid out an estimated £30.5 million in claims for business interruption, representing approximately 18% of the total estimated amount for riot claims.

It is not clear whether the Government's current position on not providing consequential losses will also have an effect on individual homeowners, for example the costs incurred as a consequence of an occupier of a residential property being displaced following damage to the property. There is a direct correlation between damage to material property used for residential occupation and the need for provision of temporary accommodation for an occupier who may find themselves displaced from their home. We support a reformed Act which makes clear that alternative accommodation costs will be covered.

Leasehold properties are generally insured by the Landlord (Freeholder) in England and Wales. Such insurance is generally placed within the Commercial Insurance market place. Alternative accommodation may be required by residents of buildings affected by a riot, which is often provided through either the buildings insurance policy for the building or the contents insurance policy held by each resident. In such circumstances, owners of the properties who sub-let to a third party will also lose out on rental income. As well as clarity that alternative accommodation costs are included in the Act, we support a reformed Act which makes clear that loss of rent costs will be covered.

It is worth noting that both alternative accommodation and loss of rent cover are generally provided under the Material Damage section of an insurance policy. Neither item is treated as a loss of income/profit, but as expenses that directly relate to the damage and loss of amenity at the property that would not otherwise have occurred. Under Pool Re, the scheme by which insurers can reinsure their liabilities for commercial property terrorism claims in



excess of their self-insured retention, the provision of alternative accommodation and loss of rent cover are included as material damage recoveries.

3.5 Personal Injury

We agree with Government's position that personal injury should not be covered in a new Act.

3.6 Capping payments

Question 5: To what extent do you agree or disagree that a cap should be applied to the amount that insurance companies can reclaim under the Riot (Damages) Act?

e) Strongly disagree.

The principle of the Act is to ensure that the Police should be liable for damage resulting from a riot. The application of a cap on the size of business that would fall within the scope of the Act significantly undermines this principle and suggests that the principle of liability only extends to protecting certain types of business. The ABI therefore strongly disagrees with applying a cap to the amount that insurance companies can reclaim under the Act.

The proposed cap would leave many businesses in areas affected by the riots in August 2011 outside of the scope of the Act. ABI analysis of claims paid following the 2011 riots estimates that:

- Businesses with a turnover of less than £2million constituted around 9% of the total value of commercial property material damage claims in the 2011 riots and around 13% of the total value of business interruption claims.
- Businesses with a turnover of less than £2million constituted around 33% of the total number of commercial property claims in the 2011 riots.

This suggests that if Government introduces a turnover cap of £2million, for every £10 paid out in compensation after the 2011 rioting, only £1 would be paid out under the reformed Act. It also suggests two thirds of businesses who claimed for riot damage through their insurer in 2011 will not be able to rely on the Act in the future if a £2million cap is introduced. Both of these consequences are likely have a significant effect on how individual insurers look to offer cover for riot in the future.

The consultation paper states that Government finds it "*questionable*" that the introduction of a cap could disincentivise larger companies locating in certain areas, but there is no doubt that any limit applied to compensation under the Act is very likely to have implications for businesses obtaining riot cover in certain areas in the future. A cap, particularly if it represents a severe limitation on the ability for insurers to recover costs, could significantly impact on premiums, lead to the incorporation of excesses for riot into certain business policies, or the exclusion of riot damage in certain areas. Ultimately, these implications could act as a deterrent for large businesses to locate in an area which may be perceived as being at risk of riot.



The Government would also need to consider whether implementing a cap constitutes using taxpayer-funded resources to provide assistance to one or more organisations in a way that gives an advantage over others and, if it does, how this may or may not fit under approved European Union mechanisms for state aid.

Question 6: To what extent do you agree or disagree that a cap should be based on business turnover?

e) Strongly disagree

It is completely arbitrary and nonsensical to use turnover as a measure of assessing whether a business should be entitled to claim compensation following a riot. It is, in effect, a measure of the scale of the business operation, rather than its profitability or ability to pay for repairs. Asset rich, profitable businesses with low operating costs may have a low turnover, whereas less profitable businesses may have a high turnover alongside similarly high costs.

Furthermore, it is unclear how a turnover cap would be applied for new businesses without a full year's accounts, or for charities and other non-profit organisations which may have an annual turnover exceeding the cap limit.

It is not clear whether Government's intends the cap to apply to charities, social enterprises or not for profit businesses which could be affected by a cap based on turnover. It would be grossly unfair to do so, but we would welcome clarity on this point.

Question 6a: If you believe a different method should be used, please describe it below:

We fundamentally oppose a cap as it runs contrary to the long established legal principle that the police are liable for damage resulting from a riot. A less arbitrary measure that would also be easier to administer would be a financial claim limit. This would, in effect, limit the amount a business could recover under the Act to a fixed sum (it could also include consequential losses).

A financial claim limit would also provide more certainty to Government on their likely exposure under the Act. A cap based on turnover does not provide this as, in theory, there is the potential for virtually unlimited damage. Similarly, a financial claim limit is more likely to provide certainty to underwriters when considering the effect of the Act on their exposure and the potential for recovery of costs. This greater certainty may mean that underwriters are more likely to be able to offer riot cover.

Question 7: To what extent do you agree or disagree that £2m is an appropriate figure for a business turnover cap?

e) Strongly disagree.

A £2 million turnover threshold is extremely low and would not adequately protect many small and medium sized enterprises, let alone large companies, which are vital to the jobs market and economy of those areas affected by riots. The independent review itself makes clear that the turnover figure of £2million is based on the definition of a "micro business" in EU law, which is described as having a turnover of less than 2m euros and less than ten



employees. Only protecting “*micro businesses*” under the Act therefore seems a step further than Government’s stated position of protecting small businesses.

ABI analysis of claims paid following the 2011 riots estimates that:

- Businesses with a turnover of less than £5million constituted around 19% of the total value of commercial property material damage claims in the 2011 riots and around 21% of the total value of business interruption claims.
- Businesses with a turnover of less than £5million constituted around 56% of the total number of commercial property claims in the 2011 riots.

A further problem that was clearly identified in the August 2011 riots was the significant levels of under-insurance for small, medium-sized and large companies. Growing medium-sized businesses in particular, may not regularly review their insurance cover to ensure that it is suitable for them, meaning many run the risk of being underinsured. Inadequate sums insured, coupled with a cap that excludes these businesses from any compensation under the RDA, would mean many businesses receiving insufficient compensation. This runs the risk of businesses failing to recover or survive in areas where arguably they are needed most.

Question 8 – To what extent do you agree or disagree that a (£2m) cap should be applied to uninsured businesses who make claims under the Act?

e) Strongly disagree.

Uninsured businesses with a turnover of more than £2m will under Government’s current proposal receive no compensation, despite the fact that the Government agrees that the police is liable for the damage.

As we do not have information on those businesses from August 2011 without insurance who claimed under the Act, we cannot estimate the effect that such a cap would have had. We believe, however, that this should be an important consideration for Government within its impact assessment before deciding upon its final policy position.

If a cap is applied to insured businesses and not to uninsured businesses this could act as a disincentive to insure. Government would also need to consider whether assistance to certain businesses, but not others, complies with state aid rules.

Question 9 – What key issues might result from applying the annual business turnover cap to landlords and agents of rented and leased properties?

The application of a cap for landlords and agents of rented and leased properties could again affect the availability of insurance cover, increase premiums and excesses for riot cover or result in exclusions for riot for areas deemed to be most at risk. Any costs incurred in repairing damage which may not be reclaimed from the Police, would be passed on to the property occupants through maintenance and service charges, as a result of the increased premium paid for the buildings insurance by the landlord / freeholder. The impact of a cap applied to landlords and property agents would therefore directly impact individual residents living in the riot area.



Although the question refers to a business turnover cap it is not clear what Government's position is on local authority blocks, housing associations and, in broader terms, public sector buildings falling within the scope of the Act. Many of these buildings will be insured, but others, particularly local authority buildings may be self-insured. We would welcome clarity on this point.

Question 9a – To what extent do you agree or disagree that £2 million is an appropriate figure for a business turnover cap to be applied to landlords and agents of rented and leased properties?

e) Strongly disagree

As explained above, any increase in premium for commercial property insurance for landlords and property agents would be passed on to tenants and leaseholders. A £2m turnover cap could therefore impact residents of small, medium and large property landlords or agents.

3.7 Excess

Question 10 – To what extent do you agree or disagree that claims made under the Act should attract an excess?

e) Strongly disagree

The application of an excess to claims under the RDA is contrary to the principle of subrogation that the Act is based on.

3.8 Prisons, detention centres and other secure facilities

Question 11 – Should the police be held liable under the Riot (Damages) Act for riots that occur in prisons, young offender institutions, immigration detention centres or other secure facilities?

b) No

We think it is reasonable that where the police are not responsible for maintaining order in prisons, detention centres or other secure facilities that they should not be liable for damage cause by riot. In effect there is no intrinsic link between police action and the prevention or quelling of disturbances, so liability should not fall to the police.

SECTION 4: THE CLAIMS PROCESS

4.1 Deadlines for making a claim

Question 12: Which option on the deadline for submitting claims is more appropriate?

a) A two tier process – 42 days to submit the initial form followed normally by 90 days to provide full details from when the claim is lodged.

We think that in most cases 42 days is a reasonable amount of time for first notification of a claim. We would emphasise, however, that in some cases the full extent of loss, for example value of business stock or cost of reinstatement for total losses, may not be known within



132 days (42 days for notification, plus 90 days for claim detail). We suggest it is made clear that the deadline applies to expected claim details and should not be prescriptive about total value when complete information may still not be available.

4.2 Repudiated claims

Question 13 – To what extent do you agree or disagree that it would be appropriate to introduce the ability to make an application later for those whose insurance claims are repudiated?

a) Strongly agree

Where an insurance claim is repudiated and the claimant is still entitled to claim under the RDA the claimant is in effect starting a separate claim. Therefore it is important that the claimant has the ability to make an application later than the deadlines previously outlined. However, it is worth noting that the official decision by an insurer that a claim has been repudiated may not be the end of the process between the insurer and the claimant. The claimant may want to challenge the basis for the repudiation through the insurer's complaints procedure or by taking their case to the Financial Ombudsman Service. Government should provide clarity on what such a scenario would mean for the claimant in either notifying or evidencing a claim under the RDA and at what stage this should happen.

4.3 Alternative methods for submitting claims

Question 14 - To what extent do you agree or disagree that introducing the ability to submit claims by phone or email would simplify the process of making an application?

a) Strongly agree

This is in line with the intention to modernise and improve the claims process under the RDA.

4.4 Interim payments

Question 15 – To what extent do you agree or disagree that interim payments would assist in processing claims and speeding up decisions?

a) Strongly agree

This is in line with the intention to modernise and improve the claims process under the RDA. Interim payments are particularly important in helping homeowners and businesses deal with the short and medium-term effects of damage in any claim. Interim or emergency payments also give reassurance to the claimant that the claims process is providing for them. In particular if a claim has complex aspects it is often appropriate to provide interim payments for those aspects which are easier to resolve early on in the claims process.

4.5 Handling of localised riots

The ABI is supportive of the intention to draft a manual providing guidance on dealing with claims for a Riot Claims Bureau, as well as one tailored specifically for PCCs.



Question 16: What else might be useful to support PCCs in handling localised riot claims?

The lack of a consistent approach to the handling of riot claims by police authorities after the August 2011 riots was a significant concern. We hope that the guidance for PCCs will seek to address this.

Many insurers delegate authority to loss adjusters to handle claims and a similar approach, if adopted by PCCs, particularly where claims experience is lacking, could speed up and bring expertise to the process.

4.6 The Riot Claims Bureau

The insurance industry has worked closely with the Home office, PCCs and loss adjusters in the development of a model to handle a large number of riot claims in the future. Fundamentally we believe that the model should foster communication between insurers, loss adjusters, Government and PCCs to improve the claims process for uninsured or underinsured RDA claimants. A Bureau that can procure the expertise of a panel of loss adjusters to deal with a significant number of claims would help in the overall claims handling process.

Question 17: What issues can you perceive in the setting up and running of a Riot Claims Bureau?

Under-insured claims

Experience of the August 2011 riots showed that claims from under-insured victims often presented a challenge, primarily because the claimant had to go through two claims processes: one with their insurer for the losses covered by their insurance policy, and another through the RDA for the losses not covered under their insurance but covered under the Act. A process through the Riot Claims Bureau which makes the transition between an insured claims process to an RDA claims process better for the claimant would be welcome. This could be achieved by communication between the insurer and the Bureau as soon as under-insurance is suspected, and by ensuring that loss adjuster reports and insured settlement information is in a standard format that can be handled easily by the Bureau to quantify and compensate the uninsured aspects to the claimant as quickly as possible.

Evidential requirements

A major factor in the delay of compensation under the RDA following the August 2011 riots was the onerous level of evidential requirements that claimants had to meet. While we recognise that the Bureau will be handling public money, we would support a process where standard evidence is required to legitimise a claim (following insurance industry practice) and cash settlements are an option for the Bureau. This should be underpinned by a robust accounting and audit system for any payments made.

Potential conflicts of interest

As the Bureau will be dealing with recovery payments to insurers as well as uninsured claims, we are conscious that a perceived conflict of interest may arise if insurers are



ultimately determining payments to themselves or a competing insurer. We support governance arrangements in the establishment of the bureau which will mitigate this risk.

Triggering

A protocol on how the Bureau will be triggered needs to be established and agreed by all parties, for example to define the scale of riot claims at which responsibility for claims handling is handed from the PCCs to the Bureau.

Appeals process

It is important that both claimants and insurers have the opportunity to appeal determinations on claims made by the Bureau. The Bureau has the potential to reject or dispute claims and will therefore need legal support should it face litigation that disputes any of its decisions.

Question 18: Which of the following targets do you think a Riot Claims Bureau should be given for resolving small value claims (under £10,000)?

d) Other

We do not believe this is an easy question to answer as each claim is different. Even small value claims can be complex or bring up particular issues. The Bureau is also reliant on the claimant providing necessary evidence for the claim to be paid, and this may take time.

There is a risk that if targets are put on resolving claims within a certain time period, there will be pressure to repudiate or settle claims in order to meet the time target rather than in the interest of the claimant.

4.7 Immediate support for riot victims

Question 19: How could the Government better equip local authority frontline staff to advise on riot compensation payments in the aftermath of civil disturbances?

- a) Training for frontline staff.**
- b) A toolkit for use by local authority staff.**

We support the principle of involving local authority frontline staff to engage with local victims following a riot and provide support, where possible, that will encourage them to claim through their insurer or through the reformed Act if they do not have insurance.

31 July 2014