



Mitsui Sumitomo Insurance Group

MSIG

## Choosing your experts - a lesson learned Brit Inns Ltd & others v BDW Trading and another

A recently reported case, in which Mitsui Sumitomo at Lloyd's was the insurer for the defendants, highlights the importance of working with the right people.

In the case of Brit Inns Ltd & others v BDW Trading and another, Mitsui Sumitomo at Lloyd's was the public liability insurer for a contractor who caused flooding to a basement of a bar and restaurant during the course of their works. The repairs to the basement and the subsequent losses that arose due to the closure of the business were handled by the insurers for the bar and restaurant. They then sought to recover their outlay against our policyholder.

Whilst liability was admitted at an early stage, insurers acting for the claimant became unstuck when it became apparent during the course of the case that their adjusting team had failed to correctly adjust the presented claim. It therefore followed that the subrogated action came under close scrutiny by our own experts and solicitors and ultimately ended in a costly 6 day trial.

The insurers for Brit Inns Ltd in the original claim paid £355,070 for material damage and £240,905 for loss of profits. In relation to the material damage claim, the Court found that invoices presented in support of the costs were unreliable, inadequate and impossible to analyse retrospectively. This was compounded by the lack of evidence of payment and checks by insurers that the work had actually been carried out.

The Court also rejected the basis for the insurer's assessment of the loss of profits claim, which was based on a competitor's business, when actual profit and loss figures were available upon which a reasonable adjustment could have been made.

In a Judgement that entirely vindicated our approach to this claim, the Court awarded just 26% of the sum claimed by insurers and, in addition, the Court ordered the Claimant to pay us the whole of our costs of the Trial.

Mitsui Sumitomo at Lloyd's [claims charter](#) sets out the commitments we make to our clients:

*"We work with the appropriate loss adjusters, third party administrators and lawyers to assist us and you. We take the view that, when engaged by us, they are an extension of our brand and our promise. We also believe that our clients deserve the best advice and service in all situations to ensure the most effective outcome is achieved. We take great care selecting the right partners and ensuring they deliver on these promises."*

We work with a select panel of loss adjusters and forensic accountants. For large losses the loss adjusters we use operate a system of internal peer review to ensure consistency of handling, and in addition have access to both internal and if necessary external experts such as quantity surveyors in order to properly review costs and repair programmes.

Our internal claims adjusters thoroughly review and challenge reports produced by the adjusting teams, and where appropriate will attend site to get first hand insight into the loss. With a final check in the form of regular loss adjuster audits carried out, you can be assured of the skill and experience of the adjusting teams we utilise.

### For further information:

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