

Insurance & Savings Ombudsman

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INVESTIGATING FRAUD FOR INSURERS

1. **Is Insurance Fraud more prevalent than it used to be ?**

I suggest that insurance fraud will always form a part of any insurer's portfolio.

Some people will always see their insurance company as fair game no matter how much advertising, public relations or how many prosecutions are laid. [*see powerpoint*]

In 1983 only a month after arriving in New Zealand, I was investigating a burglary in a bungalow in Epsom for Commercial Union. 21 years later my staff still investigate similar burglaries in similar homes throughout New Zealand.

But to answer the question specifically, I think it's about the same as it used to be, with the exception that nowadays we come across more organised groups or "gangs of fraudsters", mainly from overseas.

We regularly deal with people who fear telling the truth, as they believe that the insurer will look for any loophole to get out of the claim. Accordingly, they make up stories that "seem" plausible but end up committing "insurance fraud" as they have lied and broken the golden insurance rule of "utmost good faith".

There is a commonly held belief that the insurer will always try to reduce the payout. So a number of people "add" things to the claim, not because they haven't suffered a loss, but because they feel they will be "cheated" out of a proper settlement if they don't pad the claim.

What has changed is both:

- **The insured's ability to commit fraud; and**
- **Our ability to catch them**

With computers, fraudsters can simply create, scan, crop, cut, paste and alter any document, even colour photocopying them to make them virtually undetectable [*see powerpoint*].

However, advances in technology, coupled with the strong disclosure requirements can give us the edge. Just by way of a few quick examples we can now use:

- Mobile phone records
(We can also tell the phone repeater nearest to where the call was made).
- EFTPOS statements
- CCTV coverage
- Computer forensics by cloning a hard drive and checking for deleted files
- On-line internet searches

Claimants may believe it is easier to commit fraud. We are better placed to obtain proof of that fraud.

2. What do we look for?

Different claims have their own peculiarities.

Perhaps, the most infamous is the “black dog that ran in front of the car”, causing you to swerve and hit the tree that jumped out.

However, nothing can beat a good interview with the insured and in my view it’s so important that the insured is committed to a written statement as soon as possible. Some companies prefer a recorded interview.

The investigative industry is dominated by former police personnel, but it’s important to know that not all ex-Police are good interviewers. Some are very poor in fact and in any event, the insurance process is different from dealing with matters solely from a criminal perspective.

I have a painting on my office wall [*see powerpoint*] which show us as “The Grey Men” and that’s how I train my staff. Put simply, yes we are paid by the insurer but they must never interfere in our independent investigation. We often come across a claims officer who for one reason or another has a problem with an insured. They will say “This is fraud and I’m not paying this claim”, then give it to us to investigate. With experience comes the confidence to talk sense into the claims officer, but it’s not always possible.

Over the years, various companies have developed a “red flag” approach to claims and this is good for new claims officers. However, I am reminded of the old story when people say “You are really lucky”, when they should be noticing just how hard you work. Some claims officers just have a knack of picking the fraudulent claims and from my experience these are always the ones in the office that are truly dedicated to the company they work for.

3. Do the insurers always take your advice ?

NO, so we tend to just let them get on with their business.

I am not referring to when we discover a fraud as that is simply a matter of fact.

What I am referring to is how to manage the investigation process.

Letting a lazy claims officer, who just wants an easy life at work, handle a fraud baffles me. Let's face it there are more important things at work such as morning teas, lunch and the Friday night drinks. Why then would any claims officer want the stress of:

- Having a claim that will not go away
- Having to take or answer complaints
- Getting abusive calls (even to their home in some cases)
- Having every action they make questioned later, perhaps even in the High Court

Yet, that's exactly what happens day in and day out.

The Ombudsmans Office knows better than anyone about the "Fraudsters" who complain. It is often those who shout the loudest that have the most to hide.

Yet, sometimes insurance companies will roll over and even go out of their way to appease these people, instead of listening to their investigator. Often in these situations the investigator is the last person the insurer will talk to for fear of further "upsetting their client". It's just so bizarre and un-explainable, except to support my earlier comments, only this time it's the management that do not want the stress. [*see powerpoint*]

Going back to the fraudsters, we no longer make specific recommendations about laying a complaint to the Police. The Police will in all likelihood do nothing and it's just more cost incurred by our client.

If the amount involved is substantial or where pursuing recovery is worthwhile, civil legal action is in my view the best commercial decision.

As an investigator, I don't have the authority to determine the outcome of a claim. This is and should always be the insurer's prerogative. We can and do make recommendations. These should in my view be limited to evidential matters.

4. How do we deal with fraud when we find it?

It depends on when it's discovered.

If you get an admission from an insured that they have in some way been untruthful, the proper thing to do is to record this in a signed statement.

Experience tells us that it is best at the same time to ensure we ascertain the reason for the lies, non-disclosure, or omissions. This has two purposes:

- To ascertain the extent of the fraud
- But more importantly if they simply withdraw their claim they are able to change their mind again later.

If we find a fraud before interviewing the insured, my view is that we should hear what the insured has to say about the claim and record this in a statement. This is again testing the insured's willingness to "Act in the utmost good faith".

I believe any evidence of fraud should be put to the insured before ending the interview. This view is not shared by others who would rather adopt the attitude that: "It is easier to disprove a lie than confirm the truth". I believe a good interviewer is able to give a person the opportunity to admit their attempt at fraud, rather than have them receive a letter in the mail pointing out the evidence disproving what they have said or done.

It is also worth noting that there is no such offence as "Insurance Fraud". The usual offence is section 229A, Crimes Act 1961 "Using a document (being the claim form) for a Pecuniary Advantage"

It is also worth noting that to submit a complaint to the Police we need only to send a covering letter, which we have on our computer, enclosing a copy of the investigation report while advising who in the insurance company has the originals. The Police will of course need to interview the insured for themselves before they will lay any charges. However, there is a very strong possibility that the file will never be actioned as sadly the Police currently have a test, being that to action the file must result in "Crime or Crash Reduction".