As Loss Adjusters, we are often called upon to comment on the adequacy of the insurance policy cover in place and how this can be interpreted in the management and resolution of a claim.

This generally happens after a claim incident has occurred and the cost of reinstatement and its consequences are being incurred. Unfortunately, should problems arise, we do not have a DeLorean time machine to jump into to go back and ‘fix’ the cover.

In many instances, the likely reinstatement costs, and associated consequential losses, can be predicted with some confidence. However, when dealing with historic buildings, unexpected complexities and statutory requirements can have a significant and unpredictable influence on these costs.

In this article, the Glasgow Charles Taylor Specialist Adjusting team outlines various factors that must be considered when reviewing the insurance programme for historic buildings.
Historic Building Claims

Claims involving buildings of historic significance – and specifically those with ’Listed’ status – can be particularly challenging for many parties, including the owner, policyholder, broker, insurers, loss adjusters and even neighbours.

A building is ‘Listed’ when it is considered to be of architectural or historical significance, with the ‘Listing’ designed to preserve such properties for future generations. Listed Buildings are assigned one of three grades or categories, depending on their relative importance to national heritage. The entry grade is generally concerned with protecting the aesthetics of the building and relates to buildings of local importance. The highest grade is concerned with protecting buildings of national or international importance, and this is often reflected in the requirement to preserve every original architectural and construction detail.

From a claims’ perspective, the grade or category of the Listed Building can create a very different dynamic when dealing with a large loss.

One of the principal challenges can be the involvement of the responsible statutory body, such as Historic England, Historic Environment Scotland (HES), Cadw in Wales and the Department for Communities in Northern Ireland.

If significant damage has been sustained by a Grade I (England and Wales) or Category A (Scotland) Listed Building, the statutory body will become involved at a very early stage and look to exercise its powers to ensure the preservation of the entire building.

It is crucial that its’ interest is accommodated, and a Conservation Strategy is agreed as soon as possible to ensure that an approved approach to reinstatement can be developed. A failure to respect its’ powers can create difficulties, undermine trust and confidence, and result in a more intrusive involvement of the statutory body in the project. This can then impact on the procurement and programming of the works, with cost and time implications for both the project and the claim.
Challenges to Budgetary Control

When it comes to the statutory requirement to preserve a Listed Building, the usual considerations following severe damage to a building do not apply. An economic assessment of a repair compared with demolition and rebuilding is unlikely to be undertaken as the focus is on the preservation of whatever remains of the building. This can result in what in other circumstances would be considered to be entirely uneconomic propping and shoring of the building, or retention of its facade. In addition to the cost of designing and erecting the propping, shoring or façade retention, there are generally ongoing hire charges as well as a requirement to undertake regular routine safety checks. All of this can give rise to substantial ongoing costs that can be hard to predict.

The 'making safe works' will often involve stabilising wall heads and other stone features, including chimneys. In these situations, it is common for the agreed Conservation Strategy to require that any dismantled stonework is catalogued and put into safe storage until it can be reincorporated during repairs to the building. If the damage is such that the stone features cannot be reused, they are often retained as a record and used as patterns for replacement stonework features. Clearly, this activity, together with ongoing storage costs, can significantly increase the cost of reinstatement.

Key consideration: Following severe damage to a Listed Building, the statutory authorities’ initial focus will often be on retaining and preserving the remaining structure. This can result in what could be considered, in other circumstances, uneconomic propping, shoring and façade retention schemes. There can also be an expectation that any down-takings are accurately labelled and stored for incorporation in the reinstatement works. This can all give rise to significant, possibly unexpected, costs.

Is the historic significance of the building fully appreciated?

It is also worth noting that Listed Building owners may not always appreciate the historic significance of the building.

Once the building is made safe, access to the solum (the area of ground covered by a building) is often possible for the first time since the property was built.

This can lead to a call for an archaeological excavation, which is generally undertaken at the building owner’s expense. Needless to say, this will result in the suspension of ‘normal’ reinstatement works and therefore give rise to increased costs through delay and prolongation of the works.

This is a relatively common occurrence in cities such as York and Edinburgh, whose ‘old town’ areas have considerable historic significance and have undergone limited modern development. It was recently reported in the press that the construction of a hotel in the centre of Edinburgh had to be suspended to allow archaeologists to access areas uncovered during the ground works phase of the project. A significant archaeological find is expected to delay the construction of the hotel for up to a year.
Reinstate an exact replica?

For buildings of national importance, the requirement to restore the building to exactly replicate the original construction can be challenging. For example, where damaged lath and plaster could generally be satisfactorily replaced with plasterboard (from a functional perspective), in these cases, there will be an insistence that the lath and plaster (with a horsehair reinforced plaster matrix) is used.

The replacement of thick lime plaster on walls and elaborate cornicing may also be required, potentially involving historic research of any archived photographic records to confirm details of the ornamentation as well as the creation of patterns and moulds. Not only does this work require specialist tradesmen, it takes longer in terms of research, the carrying out of the work itself, and the time needed for the plaster to dry before following trades can proceed. These factors all result in increases in the cost of reinstatement as well as impacting on consequential losses.

Specialist joinery and metalwork can also create difficulties when exact replacement is required. In some instances, unexpected details can come to light – for example, we have dealt with a situation where handmade nails were produced to keep faith with the integrity of an original roof construction! Again, this has both time and cost implications for the reinstatement works.

**Key consideration:** While a Listed building owner may be pragmatic about the historic features the property displays and may also be satisfied with the option to reinstate it using ‘modern materials’, the statutory authorities will decide what form of reinstatement is acceptable and the rigour of this will be driven by the grade or classification of the building’s Listing.

The Impact of Statutory Compliance

Beyond the demands of exactly replicating original features and construction details in a historic building, the need to comply with Building Regulations and other statutory requirements remains. Lifts and ramps to comply with Disability Discrimination legislation can be difficult to sympathetically introduce into a traditional building.

Additionally, fire compartmentation and escape route requirements can be difficult to accommodate where there are large halls, linked open fireplaces and open stairways. Achieving alternative escape routes from turret rooms can be complicated as external fire escapes seldom satisfy the architectural aesthetic.

The introduction of fire detection and fire suppression systems also needs to be considered sympathetically to avoid compromising the historic integrity of the property.

Not only do these various considerations have the potential to increase the cost and duration of reinstatement works, they also require greater professional input in terms of design and specification.

**Key consideration:** Aside from conservation strategies, improvements stipulated in Building Regulations and fire safety requirements can be particularly onerous and expensive to accommodate in a Listed building.
Conservation Architects and Professional Fees

The professional team may also need specialist advice and we have used Conservation Architects successfully in the past. They can assist with the development of a Conservation Strategy and liaise with the statutory authorities in order to help manage their expectations and demands. Rarely is there only a single approach to achieve compliance to the satisfaction of the statutory authority, and an experienced professional can often help broker an effective and a practical solution to everyone’s benefit.

However, the greater technical demands will be reflected in higher professional fees than those encountered in a conventional reinstatement project.

These factors need to be considered and due allowance made when arranging the policy cover as they are generally out of the building owner’s control and can significantly influence the cost of reinstating a Listed building.

Key consideration: Following severe damage to a Listed building, the control of the site and actions to be taken may be heavily influenced by others. A Conservation Strategy requires to be agreed with the statutory authorities to ensure that financial control is maintained and alternative conservation strategies are fully considered. Therefore, there can be merits in appointing a Conservation Architect to assist.

VAT

Another factor which requires consideration is VAT and the extent to which this is payable on the works. Historically, the Treasury granted a VAT exemption in relation to works to Listed buildings. However, the regulations in this regard were overhauled in 2012 with the effect that this is now a far more complicated area. Generally, works to Listed buildings will no longer benefit from VAT exemptions; however, some exceptions apply which are predominantly linked to the use or function of the buildings. Each individual case must be considered on its own merits, so it may be prudent to consider seeking professional advice.
Business Interruption

Maximum Indemnity Period

Whilst various factors can influence the actual cost of reinstating a Listed Building, we have also observed that these factors can have a significant impact on the duration of the reinstatement works themselves.

The potential duration of the reinstatement works must be taken into account when specifying the Maximum Indemnity Period (MIP) in the Business Interruption policy.

Traditionally, policies often default to a notional 12-month MIP; however, for any significant incident, this is unlikely to be adequate. The Conservation Strategy agreed with the statutory authority can be expected to start from a very conservative position and is likely to insist upon the maximum retention of the remaining building fabric. Developing a Conservation Strategy combined with emergency making safe work can prolong this process considerably and we have experience of making safe and stabilisation works alone taking over 12 months to complete.

Given the consultation process required to develop and agree a Conservation Strategy for the reinstatement of each element of the property and the specialist trades that are likely to be required, MIPs of 36, 48 or even 60 months can merit consideration, depending on the historical significance of the property involved.
Loss of Attraction/Denial of Access

Property owners in close proximity to buildings of national importance should also recognise the potential for serious incidents to impact upon them, or their business, even if their premises have not suffered damage. Road closures and pedestrian and vehicular restrictions can give rise to denial of access or loss of attraction issues, and these can extend over a prolonged period as emergency measures to make the historic building safe are progressed, conservation strategies are debated and agreed, and complex propping and shoring systems are designed and installed.

Whilst Denial of Access and Loss of Attraction cover is frequently offered as an additional cover under a Business Interruption policy, often the cover has a relatively low monetary limit or has a short indemnity period.

Should a business be situated in the vicinity of buildings of architectural or cultural interest, consideration should be given to the extent to which it relies on the presence of these neighbouring buildings to generate its turnover. For example, a restaurant located next to a Grade A Listed theatre may rely heavily on the theatregoers to derive turnover or a gift shop in the proximity of a building of national importance may rely on the associated tourist footfall for the majority of its sales.

In these circumstances, the absence of the source of the attraction could have an impact as significant as damage to the businesses’ premises themselves. As such, it would be prudent to ensure Loss of Attraction cover is in place and also that the particular attraction is specified on the policy, so as to avoid any ambiguity or scope for disagreement in the event of an incident arising. Furthermore, the extent of cover afforded under the policy should be considered. As outlined previously, the reinstatement period for historic buildings is frequently significantly longer than that for buildings of more recent or ‘standard’ construction due to the various complicating factors, and the typical extension for Loss of Attraction is unlikely to be adequate should substantial damage occur.

The manner in which a Loss of Attraction manifests itself can also be interesting and the ‘sphere of influence’ resulting from an incident can be far wider than may be initially appreciated, particularly in historic ‘old towns’ where routes and relationships between buildings can be complicated. We previously dealt with a claim in Edinburgh’s Old Town in which a severe fire caused damage to several buildings that were consequently rendered unsafe. The road was closed and while access to the buildings either side of the road closure was available, there was no way through the closure itself. Consequently, the closure of this road curtailed the usual “circuit” which took visitors and local residents from the hotels to visit the bars, restaurants and night clubs in the area. As a result, these customers were drawn to other areas of the city and these businesses saw dramatic falls in their sales.

Consideration therefore must be given to the limits of this cover at the formation of the policy.

Key consideration: Other factors that need to be considered include the risks to neighbouring buildings or businesses, in areas of historic significance. In particular, damage to other properties giving rise to the need to assess the need for Denial of Access and Loss of Attraction cover and the limits of cover associated with these.
Case Study

A fire broke out in the roof of a Grade B listed 19th century baronial home in the central belt of Scotland.

The fire developed rapidly and spread through the dry roof timbers, fanned by strong winds.

Despite a prompt intervention by the Fire and Rescue Services, the firefighting was hampered by a lack of water pressure in an old fire hydrant and, ultimately, extension hoses were required to draw water from a nearby stream and pond.

The fire consumed the entire roof and spread downwards, eventually leaving only the internal and external stone walls standing.

The collapse of the roof pushed out wall heads, disturbing the stonework which became unstable. Furthermore, the tall chimneys no longer benefited from the support of the adjacent roof structure and these slender structures became vulnerable to damage by high winds.

Our experienced adjusters were appointed bringing their specialist engineering and surveying expertise into play. Furthermore, their experience of dealing with claims for Listed Buildings and an awareness of the roles and responsibilities of the various official bodies allowed them to engage in constructive discussions and debate regarding the approaches to be adopted.

The property occupied its own extensive private grounds and public safety was therefore less of a concern; however, Historic Environment Scotland (HES) and the local authority’s Building Control Department became actively involved and urgent making safe works were required to fulfil HES requirements.

A demolition contractor was appointed to undertake the painstaking process of removing loose high-level stonework, accessing it from a man-basket suspended from a crane. Similarly, the tall chimneys were taken down by hand and, in both cases, each individual stone and chimney pot was numbered, and its exact position recorded for future reinstatement purposes. This architectural salvage was then stored in a secure compound which, fortunately, could be accommodated in the extensive grounds of the house.

The loss of the upper floors compromised the stability of the external and internal walls, and consequently a self-supporting façade retention scheme was introduced.

To protect the remaining structure from the elements, assist the drying of the substantial stone walls and allow reinstatement works to proceed through the winter, a temporary lattice beam roof, supported on the facade retention scheme, enclosed the building.
Once full and protected access was available to the building, HES undertook a detailed assessment of the exposed structure to identify previously concealed features which could add to the understanding of how the building was first built and subsequently extended.

This led to the requirement for the building owner to engage a team of archaeologists as a Heritage Management Strategy developed.

It was clear that we would need to take advice before agreeing to any particular strategy. This also required a full understanding of the relevant statutory requirements and how they could be accommodated. We therefore engaged a Conservation Architect to assist us.

This allowed us to challenge some technical issues as well as propose alternative approaches to satisfy the conservation requirements. Adopting a collaborative approach with the statutory authorities generally improved the relationships and cooperation on site.

A detailed digital photographic record of all internal and external walls, as well as features of interest, was undertaken. The photographs were then used to produce architectural drawings of all elevations, showing individual stones as well as any cracks or defects.

With access now available to the solum below the building, an archaeological dig was instructed. This revealed some original stone paving as well as a single silver clothes pin, which created some initial excitement.

As attention turned to reinstatement, an unexpected dynamic developed whereby Building Control had concerns over the stability of two bay windows and a stone spiral staircase. It suggested that these features would need to be taken down and rebuilt.

This approach contrasted with the conservation stance that the HES would seek to adopt, whereby the original structure should be retained in its original condition as far as is possible. It also had cost implications for the rebuild contract and, in this regard, structural engineers were able to reassure Building Control that these structures could be retained by ‘stitching repairs’ and strengthening works, which reduced costs and assisted HES in preserving the original building fabric. Fire safety engineering requirements also created difficulties. The above-ground height of the turret rooms introduced the requirement to comply with more rigorous standards for escape routes. This was further complicated by difficulties in achieving the fire compartmentation desired by the Fire Engineers.
We endeavoured to argue that, as we were only repairing the building, we should be able to restore it to its former glory without needing to achieve compliance with current Building Regulations. However, this argument was rejected by Building Control, which insisted that as over 80% of the building had been destroyed, its reinstatement must meet the requirements for a ‘new build’.

The open entrance hall complete with sweeping staircase and a large open fireplace was a particular concern, and fireplace shutters with fusible release mechanisms and toughened fire-rated glass screens on the landings were considered. This was not a popular suggestion and, together with the extensive introduction of self-closing fire doors, concerns were raised that this would create a more commercial environment rather than recreate a domestic dwelling.

A sprinkler system was also proposed; however, this was problematic for a number of reasons. Firstly, there were concerns that it created an onerous maintenance obligation for the householder. It was also recognised that sprinkler leakage could potentially create as great a risk of significant damage to the building fabric as a fire, and there were also concerns as to how it could actually be installed ‘sympathetically’ without compromising other architectural features in the property.

However, the greatest drawback was the water supply required by a sprinkler system. The water supply to the property had already been identified as problematic during the firefighting, and in the absence of installing a private water main, the alternative was to build a bulk storage tank on an adjacent hill. Neither option was considered desirable or affordable and the Fire Engineers therefore developed a solution based on robust fire compartmentation.
Conclusion

Claims involving Listed buildings can be complicated and unpredictable. They attract the interest of other parties who are typically more concerned with conservation issues than budgetary control. The costs of reinstating materials in a traditional manner and making historic buildings comply with modern building regulations can be expensive and time-consuming, with significant implications for ongoing consequential losses. If archaeological investigations are required, these can further prolong reinstatement work and increase costs.

The expertise and powers of the statutory authorities should not be underestimated, but a collaborative approach can be achieved which realises the requirements to preserve our heritage while still managing the need for financial controls.

When it comes to designing insurance policy cover, an assessment of the Value at Risk can be difficult. Therefore, professional advice should be sought to arrive at a reasonable base figure, which can then be enhanced to address other physical features or constraints to reinstatement that can be envisaged.
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Our Expertise

Charles Taylor Adjusting has significant expertise and experience in dealing with substantial and complex losses involving buildings with historic significance and Listed status. CTA has a team of experts, including Chartered Loss Adjusters, Chartered Engineers, Chartered Surveyors and Forensic Accountants ready to assist.

Our multi-disciplinary approach to major losses means that we appoint the correct expert to each area of the assignment, enabling the lead adjuster to focus on case management and strategy to ensure swift resolution of the claim.

We look to employ a bespoke and innovative approach to each claim, applying an appropriate resource and expertise to ensure the best outcome.

About Charles Taylor Adjusting

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