



**Reading, Understanding & Applying Laws**

by  
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### Learning objectives

By the end of the webinar, participants will be able to:

- identify key skills in reading and understanding laws.
- recognise how to assimilate the knowledge gained and apply the law to a case study or provide advice to a client in a logical and clear way.
- implement a strategy to read, understand and apply law more quickly and effectively.

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### How to find laws

- Statutes:  
[www.legislation.gov.uk](http://www.legislation.gov.uk)
- Case law:  
[www.supremecourt.gov.uk/decided-cases/index.shtml](http://www.supremecourt.gov.uk/decided-cases/index.shtml) (press summary and judgments available)  
[www.bailii.org](http://www.bailii.org)  
[www.iclr.co.uk](http://www.iclr.co.uk) – The Incorporated Council of Law Reporting for England & Wales (has the latest case summaries and an alert subscription)

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# Insurance Act 2015

## 2015 CHAPTER 4

An Act to make new provision about insurance contracts; to amend the Third Parties (Rights against Insurers) Act 2010 in relation to the insured persons to whom that Act applies; and for connected purposes. [12th February 2015]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

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Insurance Act 2015

legislation.gov.uk/ukpga/2015/4/contents/enacted

**What Version**

- Latest available (Revised)
- Original (As enacted)

**Opening Options**

**More Resources**

**Status:** This is the original version (as it was originally enacted).

**Table of Contents:**

- Introductory Text
- PART 1 Insurance contracts: main definitions**
  - 1. Insurance contracts: main definitions
- PART 2 The duty of fair presentation**
  - 2. Application and interpretation
  - 3. The duty of fair presentation
  - 4. Knowledge of insured
  - 5. Knowledge of insurer
  - 6. Knowledge: general
  - 7. Supplementary
  - 8. Remedies for breach
- PART 3 Warranties and other terms**
  - 9. Warranties and representations
  - 10. Breach of warranty
  - 11. Terms not relevant to the actual loss
- PART 4 Fraudulent claims**
  - 12. Remedies for fraudulent claims
  - 13. Remedies for fraudulent claims: group insurance
- PART 5 Good faith and contracting out**
  - Good faith
  - 14. Good faith
  - Contracting out

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legislation.gov.uk/ukpga/2015/4/contents

**what version**

- Latest available (Revised)
- Original (As enacted)

**Opening Options**

**More Resources**

**Changes to legislation:** There are currently no known outstanding effects for the Insurance Act 2015.

**Table of Contents:**

- Introductory Text
- PART 1 Insurance contracts: main definitions**
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- PART 2 The duty of fair presentation**
  - 2. Application and interpretation
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  - 4. Knowledge of insured
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  - 9. Warranties and representations
  - 10. Breach of warranty
  - 11. Terms not relevant to the actual loss
- PART 4 Fraudulent claims**
  - 12. Remedies for fraudulent claims
  - 13. Remedies for fraudulent claims: group insurance
- PART 4A Late payment of claims**
  - 13A. Implied term about payment of claims
- PART 5 Good faith and contracting out**
  - Good faith
  - 14. Good faith
  - Contracting out

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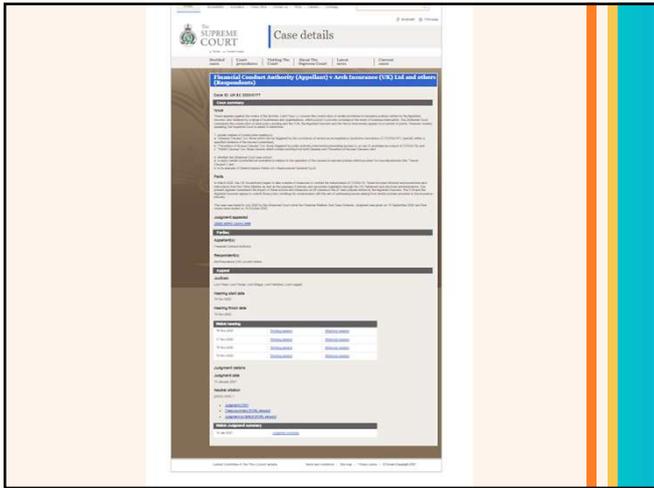
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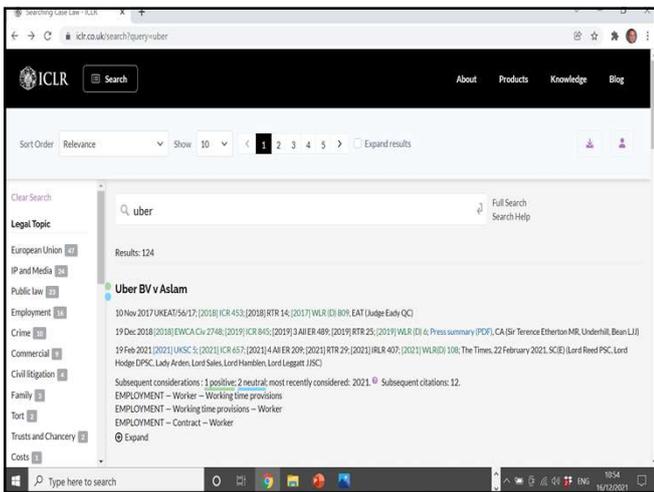
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## Reading law textbooks

- Be very careful when choosing texts.
- Begin with overviews, then delve deeper.
- Don't be tempted to go direct to articles / opinion pieces.
- Have a system for taking notes.

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### Reading list

The following list provides details of various publications which may assist your studies.

**Note:** The examination will test the syllabus alone. The reading list is provided for guidance only and is not in itself the subject of the examination.

The publications will help you keep up-to-date with developments and will provide a wider coverage of syllabus topics.

CI/PS members can borrow most of the additional titles mentioned below from Knowledge Services CI Study text and the contract law library.

New materials are added frequently - for information about new releases and lending service, please go to [www.ci.co.uk/knowledge](http://www.ci.co.uk/knowledge) or email [knowledge@ci.co.uk](mailto:knowledge@ci.co.uk).

### CIJ study texts

Claims practice, London: CIJ. Study text M&P/PS. Insurance law, London: CIJ. Study text M&P/PS. Insurance, legal and regulatory, London: CIJ. Study text P/PS.

### Books (and eBooks)

Claims handling law and practice, Richard West et al. London: LexisNexis, 2008.

Claims and public liability policies, P F F Shaw, London: Witley, 1994.

Claims and managed the public, essential law and special parts, R W Wainwright, London: Witley, 1994.

"Claims handling", Chapter - Insurance theory and practice, Bob Thoyns, New York: Routledge, 2010.

"Claims under the policy", Chapter - Bird's modern insurance law, 9th ed, John Birds, London: Sweet & Maxwell, 2013.

"Claims procedure", Chapter - The law of insurance contracts, 6th ed, Malcolm A Clarke et al. London: Informa, 2009.

Colonna's law of insurance, 10th ed, London: Sweet & Maxwell, 2014.

Contracts for difference, iMinds Pty Limited, 2009.

Drafting insurance contracts - remedy, clarity, law and practice, Christopher Henley, London: LexisNexis, 2010.

Fraudulent claims, deceit, insurance and practice, Matthew Chapman, St Albans, UK: AP, 2007.

Handbook of insurance, Georges Dionne, New York: Springer, 2013.

Insurance claims, 3rd ed, Alison Padfield, Bloomsbury Professional, 2010.

Insurance disputes, Jonathan Mance, Iain Goldrein, Robert Merrett, 3rd ed, London: Informa, 2011.

Insurance theory and practice, Bob Thoyns, Routledge, 2010.

Subrogation: law and practice, Charles Mitchell et al. Oxford: Oxford University Press, 2007.

"Subrogation", Chapter - Law of insurance contracts, 4th ed, Malcolm A Clarke, London: Informa, 2010.

Tackling insurance fraud: law and practice, David Morse, Lyone, Sussex, London: Informa Professional, 2010.

### Facilities and other online resources

CIJ offers a range of resources designed to assist the knowledge of members. Coverage general insurance, life and pensions and financial services sectors, the facility collection includes key industry topics as well as less familiar or more niche areas. Information is drawn together in a way that is easily accessible.

[www.ci.co.uk/ifaFacilities](http://www.ci.co.uk/ifaFacilities) (CI/PS members only).

• The regulation of general insurance business, Ian Youngman.

• Civil procedure rules, Alan Peck.

• Fraudulent claims, Ian Youngman.

• The business of insurance broking, Ian Youngman.

Contract certainty, an AICMC guide for risk managers and insurance buyers, AICMC, 2009. Available via [www.aicmc.com](http://www.aicmc.com) (register your details to access).

Deliverance excellence in insurance claims handling: claims best practice guide, AICMC, 2010. Available via [www.aicmc.com](http://www.aicmc.com) (register your details to access).

Reservation of rights, AICMC, 2009. Available via [www.aicmc.com](http://www.aicmc.com) (register your details to access).

Further articles and technical bulletins are available at [www.ci.co.uk/knowledge](http://www.ci.co.uk/knowledge) (CI/PS members only).

### Journals and magazines

The Journal, London: CIJ. Six issues a year. Also available online via [www.ci.co.uk/knowledge](http://www.ci.co.uk/knowledge) (CI/PS members only).

Post magazine, London: Informa Financial Publishing. Weekly. Also available online at [www.postonline.co.uk](http://www.postonline.co.uk).

Further periodical publications are available at [www.ci.co.uk/knowledge](http://www.ci.co.uk/knowledge).

### Reference materials

Concise encyclopedia of insurance terms, Laurence S. Silver, et al. New York: Routledge, 2014.

Dictionary of insurance, C Bennett, 2nd ed, London: Pearson Education, 2014.

Insurance: Conduct of Business sourcebook (COBS). Available via [www.fca.gov.uk/conduct](http://www.fca.gov.uk/conduct).

\* Also available as an eBook through Discover via [www.ci.co.uk/knowledge](http://www.ci.co.uk/knowledge) (CI/PS members only).

### Examination guides

An examination guide, which includes a specimen paper, is available to purchase via [www.ci.co.uk](http://www.ci.co.uk).

If you have a current study text enrolment, the current examination guide is included and is accessible via [www.ci.co.uk/knowledge](http://www.ci.co.uk/knowledge) (CI/PS members only).

Revisonnotes (www.revisonnotes.com) feature a flow to access Revisonnotes are on the first page of your study text.

## The Terms of the Insurance Contract

### 1. The perspective of the general law of contract

The law governing insurance contracts is rooted in the common law. As such, the approach adopted by the courts towards the classification of terms in contracts of insurance owes its origins to the jurisprudence which developed rapidly during the late eighteenth century and throughout the nineteenth century in response to the increasing sophistication of the commercial contract.

The common law of contract proceeds on the basis that not all obligations created by an agreement are of equal significance or importance to the parties. The orthodox classification of contractual terms categories such obligations as either 'conditions' on the one hand, or 'warranties' on the other. A condition is an essential term of the contract and is fundamental in nature,<sup>1</sup> the effect of its breach is to entitle the innocent party to terminate the contract and sue for damages. A warranty, however, is a subsidiary promise, the breach of which entitles the innocent party to damages only and not to terminate the contract.<sup>2</sup>

<sup>1</sup> For a detailed analysis of the development of the law along these lines, see E Peel, *Treitel on the Law of Contract* (London: Sweet & Maxwell, 2007) at 6-10, 6-11, 6-12, 6-13, 6-14, 6-15, 6-16, 6-17, 6-18, 6-19, 6-20, 6-21, 6-22, 6-23, 6-24, 6-25, 6-26, 6-27, 6-28, 6-29, 6-30, 6-31, 6-32, 6-33, 6-34, 6-35, 6-36, 6-37, 6-38, 6-39, 6-40, 6-41, 6-42, 6-43, 6-44, 6-45, 6-46, 6-47, 6-48, 6-49, 6-50, 6-51, 6-52, 6-53, 6-54, 6-55, 6-56, 6-57, 6-58, 6-59, 6-60, 6-61, 6-62, 6-63, 6-64, 6-65, 6-66, 6-67, 6-68, 6-69, 6-70, 6-71, 6-72, 6-73, 6-74, 6-75, 6-76, 6-77, 6-78, 6-79, 6-80, 6-81, 6-82, 6-83, 6-84, 6-85, 6-86, 6-87, 6-88, 6-89, 6-90, 6-91, 6-92, 6-93, 6-94, 6-95, 6-96, 6-97, 6-98, 6-99, 6-100, 6-101, 6-102, 6-103, 6-104, 6-105, 6-106, 6-107, 6-108, 6-109, 6-110, 6-111, 6-112, 6-113, 6-114, 6-115, 6-116, 6-117, 6-118, 6-119, 6-120, 6-121, 6-122, 6-123, 6-124, 6-125, 6-126, 6-127, 6-128, 6-129, 6-130, 6-131, 6-132, 6-133, 6-134, 6-135, 6-136, 6-137, 6-138, 6-139, 6-140, 6-141, 6-142, 6-143, 6-144, 6-145, 6-146, 6-147, 6-148, 6-149, 6-150, 6-151, 6-152, 6-153, 6-154, 6-155, 6-156, 6-157, 6-158, 6-159, 6-160, 6-161, 6-162, 6-163, 6-164, 6-165, 6-166, 6-167, 6-168, 6-169, 6-170, 6-171, 6-172, 6-173, 6-174, 6-175, 6-176, 6-177, 6-178, 6-179, 6-180, 6-181, 6-182, 6-183, 6-184, 6-185, 6-186, 6-187, 6-188, 6-189, 6-190, 6-191, 6-192, 6-193, 6-194, 6-195, 6-196, 6-197, 6-198, 6-199, 6-200, 6-201, 6-202, 6-203, 6-204, 6-205, 6-206, 6-207, 6-208, 6-209, 6-210, 6-211, 6-212, 6-213, 6-214, 6-215, 6-216, 6-217, 6-218, 6-219, 6-220, 6-221, 6-222, 6-223, 6-224, 6-225, 6-226, 6-227, 6-228, 6-229, 6-230, 6-231, 6-232, 6-233, 6-234, 6-235, 6-236, 6-237, 6-238, 6-239, 6-240, 6-241, 6-242, 6-243, 6-244, 6-245, 6-246, 6-247, 6-248, 6-249, 6-250, 6-251, 6-252, 6-253, 6-254, 6-255, 6-256, 6-257, 6-258, 6-259, 6-260, 6-261, 6-262, 6-263, 6-264, 6-265, 6-266, 6-267, 6-268, 6-269, 6-270, 6-271, 6-272, 6-273, 6-274, 6-275, 6-276, 6-277, 6-278, 6-279, 6-280, 6-281, 6-282, 6-283, 6-284, 6-285, 6-286, 6-287, 6-288, 6-289, 6-290, 6-291, 6-292, 6-293, 6-294, 6-295, 6-296, 6-297, 6-298, 6-299, 6-300, 6-301, 6-302, 6-303, 6-304, 6-305, 6-306, 6-307, 6-308, 6-309, 6-310, 6-311, 6-312, 6-313, 6-314, 6-315, 6-316, 6-317, 6-318, 6-319, 6-320, 6-321, 6-322, 6-323, 6-324, 6-325, 6-326, 6-327, 6-328, 6-329, 6-330, 6-331, 6-332, 6-333, 6-334, 6-335, 6-336, 6-337, 6-338, 6-339, 6-340, 6-341, 6-342, 6-343, 6-344, 6-345, 6-346, 6-347, 6-348, 6-349, 6-350, 6-351, 6-352, 6-353, 6-354, 6-355, 6-356, 6-357, 6-358, 6-359, 6-360, 6-361, 6-362, 6-363, 6-364, 6-365, 6-366, 6-367, 6-368, 6-369, 6-370, 6-371, 6-372, 6-373, 6-374, 6-375, 6-376, 6-377, 6-378, 6-379, 6-380, 6-381, 6-382, 6-383, 6-384, 6-385, 6-386, 6-387, 6-388, 6-389, 6-390, 6-391, 6-392, 6-393, 6-394, 6-395, 6-396, 6-397, 6-398, 6-399, 6-400, 6-401, 6-402, 6-403, 6-404, 6-405, 6-406, 6-407, 6-408, 6-409, 6-410, 6-411, 6-412, 6-413, 6-414, 6-415, 6-416, 6-417, 6-418, 6-419, 6-420, 6-421, 6-422, 6-423, 6-424, 6-425, 6-426, 6-427, 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6-571, 6-572, 6-573, 6-574, 6-575, 6-576, 6-577, 6-578, 6-579, 6-580, 6-581, 6-582, 6-583, 6-584, 6-585, 6-586, 6-587, 6-588, 6-589, 6-590, 6-591, 6-592, 6-593, 6-594, 6-595, 6-596, 6-597, 6-598, 6-599, 6-600, 6-601, 6-602, 6-603, 6-604, 6-605, 6-606, 6-607, 6-608, 6-609, 6-610, 6-611, 6-612, 6-613, 6-614, 6-615, 6-616, 6-617, 6-618, 6-619, 6-620, 6-621, 6-622, 6-623, 6-624, 6-625, 6-626, 6-627, 6-628, 6-629, 6-630, 6-631, 6-632, 6-633, 6-634, 6-635, 6-636, 6-637, 6-638, 6-639, 6-640, 6-641, 6-642, 6-643, 6-644, 6-645, 6-646, 6-647, 6-648, 6-649, 6-650, 6-651, 6-652, 6-653, 6-654, 6-655, 6-656, 6-657, 6-658, 6-659, 6-660, 6-661, 6-662, 6-663, 6-664, 6-665, 6-666, 6-667, 6-668, 6-669, 6-670, 6-671, 6-672, 6-673, 6-674, 6-675, 6-676, 6-677, 6-678, 6-679, 6-680, 6-681, 6-682, 6-683, 6-684, 6-685, 6-686, 6-687, 6-688, 6-689, 6-690, 6-691, 6-692, 6-693, 6-694, 6-695, 6-696, 6-697, 6-698, 6-699, 6-700, 6-701, 6-702, 6-703, 6-704, 6-705, 6-706, 6-707, 6-708, 6-709, 6-710, 6-711, 6-712, 6-713, 6-714, 6-715, 6-716, 6-717, 6-718, 6-719, 6-720, 6-721, 6-722, 6-723, 6-724, 6-725, 6-726, 6-727, 6-728, 6-729, 6-730, 6-731, 6-732, 6-733, 6-734, 6-735, 6-736, 6-737, 6-738, 6-739, 6-740, 6-741, 6-742, 6-743, 6-744, 6-745, 6-746, 6-747, 6-748, 6-749, 6-750, 6-751, 6-752, 6-753, 6-754, 6-755, 6-756, 6-757, 6-758, 6-759, 6-760, 6-761, 6-762, 6-763, 6-764, 6-765, 6-766, 6-767, 6-768, 6-769, 6-770, 6-771, 6-772, 6-773, 6-774, 6-775, 6-776, 6-777, 6-778, 6-779, 6-780, 6-781, 6-782, 6-783, 6-784, 6-785, 6-786, 6-787, 6-788, 6-789, 6-790, 6-791, 6-792, 6-793, 6-794, 6-795, 6-796, 6-797, 6-798, 6-799, 6-800, 6-801, 6-802, 6-803, 6-804, 6-805, 6-806, 6-807, 6-808, 6-809, 6-810, 6-811, 6-812, 6-813, 6-814, 6-815, 6-816, 6-817, 6-818, 6-819, 6-820, 6-821, 6-822, 6-823, 6-824, 6-825, 6-826, 6-827, 6-828, 6-829, 6-830, 6-831, 6-832, 6-833, 6-834, 6-835, 6-836, 6-837, 6-838, 6-839, 6-840, 6-841, 6-842, 6-843, 6-844, 6-845, 6-846, 6-847, 6-848, 6-849, 6-850, 6-851, 6-852, 6-853, 6-854, 6-855, 6-856, 6-857, 6-858, 6-859, 6-860, 6-861, 6-862, 6-863, 6-864, 6-865, 6-866, 6-867, 6-868, 6-869, 6-870, 6-871, 6-872, 6-873, 6-874, 6-875, 6-876, 6-877, 6-878, 6-879, 6-880, 6-881, 6-882, 6-883, 6-884, 6-885, 6-886, 6-887, 6-888, 6-889, 6-890, 6-891, 6-892, 6-893, 6-894, 6-895, 6-896, 6-897, 6-898, 6-899, 6-900, 6-901, 6-902, 6-903, 6-904, 6-905, 6-906, 6-907, 6-908, 6-909, 6-910, 6-911, 6-912, 6-913, 6-914, 6-915, 6-916, 6-917, 6-918, 6-919, 6-920, 6-921, 6-922, 6-923, 6-924, 6-925, 6-926, 6-927, 6-928, 6-929, 6-930, 6-931, 6-932, 6-933, 6-934, 6-935, 6-936, 6-937, 6-938, 6-939, 6-940, 6-941, 6-942, 6-943, 6-944, 6-945, 6-946, 6-947, 6-948, 6-949, 6-950, 6-951, 6-952, 6-953, 6-954, 6-955, 6-956, 6-957, 6-958, 6-959, 6-960, 6-961, 6-962, 6-963, 6-964, 6-965, 6-966, 6-967, 6-968, 6-969, 6-970, 6-971, 6-972, 6-973, 6-974, 6-975, 6-976, 6-977, 6-978, 6-979, 6-980, 6-981, 6-982, 6-983, 6-984, 6-985, 6-986, 6-987, 6-988, 6-989, 6-990, 6-991, 6-992, 6-993, 6-994, 6-995, 6-996, 6-997, 6-998, 6-999, 7-000.

<sup>2</sup> In *Chabiron v Hays* (1841) 2 Man & G 257 at 266, the court stated that a term is a condition if the 'performance of the stipulation (tend) to the very root ... of the contract'. In *Hull v Scull*, 50 F. & R. 1009 (1910) 2 KB 1003 at 1012, Fletcher Moulton LJ observed that: 'that from a very early period of our law it has been recognised that ... (contractual) obligations are not all of equal importance. There are some which are so essential to the substance of the contract, or, in other words, are so essential to its very nature that their non-performance may fairly be considered by the other party as a substantial failure to perform the contract ...'. On the other hand, there are other obligations which, though they must be performed, are not so vital that a failure to perform them goes to the substance of the contract.' In determining the nature of a term which has been broken, the courts continue to have regard to the consequences of the breach. Thus, the fact that the effects of the breach are not significant may lead the court to hold that the term is not a condition. *State Trading Corporation of India v Adalatjee Ltd* (1969) 2 Lloyd's Rep 277.

### Issue

### Detail

### Source

Classification of terms in a contract of insurance

There are two types of terms in the contract – conditions and warranties.

Doctrines and Principles of Insurance Law p.217

## Applying the law

|            |    |            |
|------------|----|------------|
| Issue      |    | Claim      |
| Rule       |    | Law        |
|            | or |            |
| Analysis   |    | Evaluation |
| Conclusion |    | Outcome    |

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## An example

### Section 13A

(1) It is an implied term of every contract of insurance that if the insured makes a claim under the contract, the insurer must pay any sums due in respect of the claim within a reasonable time.

(2) A reasonable time includes a reasonable time to investigate and assess the claim.

(3) What is reasonable will depend on all the relevant circumstances, but the following are examples of things which may need to be taken into account—

- (a) the type of insurance,
- (b) the size and complexity of the claim,
- (c) compliance with any relevant statutory or regulatory rules or guidance,
- (d) factors outside the insurer's control.

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John has contacted you for advice. He has lost a contract because he has been unable to afford to replace the machinery that is the subject of his claim. The insurer confirmed that the policy would respond over a year ago but they have delayed in assessing quantum because they have been overwhelmed with work as a result of the Covid BI claims. John is furious and wants your advice on whether he can make a claim against the insurer for their delays.

Advise John.

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Your claim is for damages for late payment of an insurance claim.

The law states that the insurer should investigate, assess and make payments in a reasonable time, subject to any factors that may be outside their control.

Your claim is not complex and you have supplied all information requested by the insurer promptly and in sufficient detail to enable them to make an assessment. I do not consider that their excuse of being overwhelmed with work is likely to be a reasonable excuse for the delay.

Based on the information currently available, my opinion is that your claim for damages for late payment of your insurance claim will be successful.

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## Restatement of learning objectives

By the end of the webinar, participants will be able to:

- identify key skills in reading and understanding laws.
- recognise how to assimilate the knowledge gained and apply the law to a case study or provide advice to a client in a logical and clear way.
- implement a strategy to read, understand and apply law more quickly and effectively.

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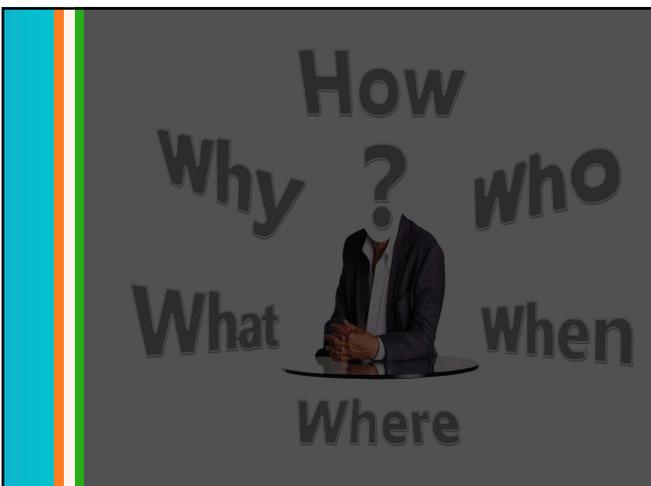
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