

DAMAGE LIMITATION

General Information

Background

Bodyworks (UK) Ltd is a network of ten vehicle repair shops in the Midlands. Remarkably, in an industry renowned for its oily rags, Bodyworks has a reputation for a smooth, clean and efficient operation. It has computerised its operation, systemised its activities and maximised its profits. There is talk of it being floated within the next twelve months.

Mass Insurers plc covers the mass market of car insurance. It too has systemised its claims process and the way that vehicles are repaired. MIP enters into contracts with vehicle repair groups whereby the groups agree pre-set prices for standard operations. In return, MIP guarantee electronic payment of the repair companies invoices within a pre-agreed time. This gives MIP confidence over price exposure and also gives the repair groups a guaranteed cash flow.

MIP has three categories of contract with repair companies:

- Category 3 – new company, regular inspections, payment 28 days

- Category 2 – longer term relationship, occasional inspections, payment 14 days

- Category 1 – trusted relationship, self-certifying, payment on demand

The prized Category 1 status is hard-won and the result of rigorous inspections and testing before MIP award the classification. It means that each job is posted on the computer system which then calculates the price. The company then enters any variables (that is the non-standardised work) and the date by which the work will be completed and payment of 90% of the value is then automatically transferred to the company's bank three days after the predicted completion date. The company is expected to enter revised dates if the work is delayed.

MIP carry out monthly reconciliations. If there are no queries the 10% balance is then transferred. Simple, efficient and the repair companies banks love it!

The dispute

Nine months ago, as part of its fraud avoidance process, MIP carried out a spontaneous audit on Bodyworks. Although there was no particular reason for MIP targeting Bodyworks, the computer system had registered that the variables being entered were above the national average. The system automatically flags up a warning when this happens as it is the main area of possible abuse. The audit results gave serious concerns that the system was being abused and MIP immediately reduced the Category 1 status for Bodyworks to Category 3. This caused huge problems with Bodyworks, not least with their bank, and Bodyworks requested urgent meetings with MIP to resolve the situation. Unfortunately, MIP had passed the case to their investigation and enforcement

department which meant that the matter was 'in the system' and it would take four months before conclusions could be reached - this is deliberate policy by MIP to punish companies that abuse their trust.

The investigation report gave MIP several grounds for believing that Bodyworks had abused their relationship and the result was that MIP claimed the return of £285,000 overpayments together with interest and costs – a total of £320,000 – together with a threat of instigating prosecution for fraud (all figures are exclusive of VAT). Bodyworks immediately instigated an internal investigation under two headings:

Detailed check on the MIP report

Where the weaknesses were in their 'foolproof' computer system.

The detailed check of the investigation report showed that MIP had taken a 'random' sample of 100 vehicle repairs and then used an averaging across the thousands of repairs carried out over the investigated period. The result was an 11.5% overcharge. Bodyworks believed that this gave a highly distorted picture and one that worked very much to Bodyworks disadvantage. Bodyworks did their own random sample and that suggested an overcharge of 0.75%, well within the tolerance allowed for Category 1 companies.

There has been a meeting between MIP and Bodyworks and a measure of agreement was reached on a handful of cases, but not the majority. Bodyworks are keen to recover their Category 1 status and have requested that the matter be mediated as soon as possible.

Attending the mediation

There was some discussion with the Mediator about who should attend the mediation. Originally both sides intended bringing technical experts, accountants and other support personnel. In the end it was left for the parties to decide but with the clear message from the Mediator to keep it 'lean and keen'. Definitely attending are:

Steve Richards	Director Bodyworks
Alex Shawcross	Commercial Manager Bodyworks

Chris Davidson	Chief Investigator MIP
Jay Bird	Technical Director MIP

Other possible attenders:
Lawyers for each side
Bodyworks Service manager
MIP travelling inspector
Audit specialist

NOTE: In the real case there were piles of computer printouts provided by both parties to justify their audit results. This led to a lot of discussion and analysis of individual and groups of charges. You won't have that opportunity in the role play and will therefore need to make some assumptions on the detail.