
Underwriting Controls Better Wordings Matter

3rd February 2017

Agenda

Jon Hancock	Contract Wordings: a Key Underwriting Control
Mark Williams	The Market's Oversight of Wordings
John Muir	A Broker's Perspective
Market Panel	Mind the (Talent) Gap
Andrew Schütte	Policy wordings under attack: Report from the frontline!
Mark Williams	Questions & Close

Contract Wordings A Key Underwriting Control

Jon Hancock, Head of Performance Management – Lloyd's

The Market's Oversight of Contract Wordings

Mark Williams, Interim Standards Review Manager – Lloyd's

Twitter Poll Results



LinkedIn Feedback



██████████ Talent gap and soft market conditions especially considering the aspect of manuscript wordings.

1 day ago



██████████ I believe we have a shortage of wordings talent in the insurance industry, particularly now with Conduct Risk and consumer-focussed business

2 days ago



██████████ Yes all the points put forward are major but if your wordings are not in plain language and easy to understand then you will have brokers and more importantly insureds wondering if they are covered or not. We need to make wordings more clear and less complicated.

20 hours ago



██████████ The talent gap definitely. If we stop talking about it (we do love a buzzword in insurance!) and actually do something positive we could use all the fresh new talent to help us address the remaining three!!

4 days ago

Contract Quality

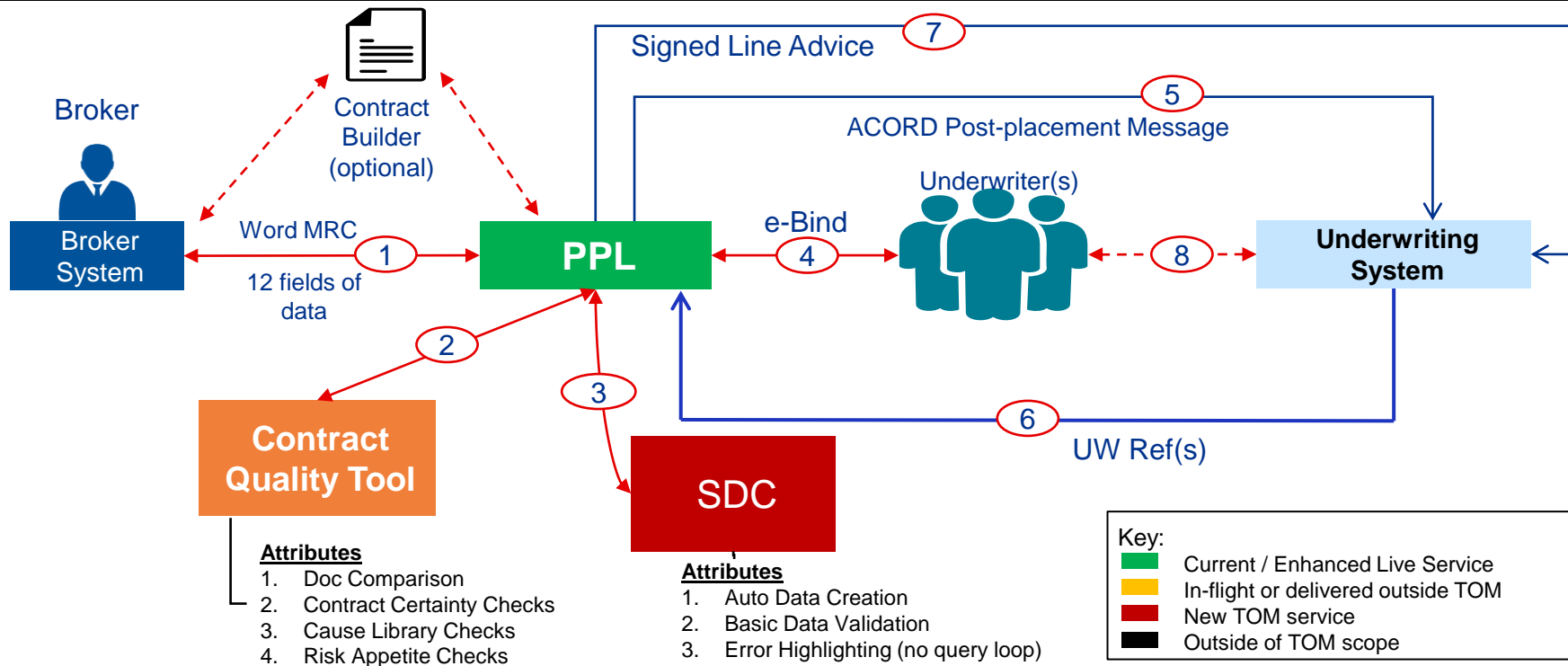
Talent Gap

Market Conditions

Regulation

Technology

PPL Firm Order High Level Design



Oversight of Wordings

Lloyd's Wordings Fact Find - Minimum Standards

UW 1.2.1 - Underwriting and Controls Framework

Managing agents shall have an effective underwriting systems and controls framework in place for each managed syndicate.

Managing agents shall ensure that:

- there are requirements to achieve Pre-Bind Quality Assurance (PBQA);
- there are appropriate procedures and resources for review and agreement of contract wordings, including requirements to achieve Contract Certainty; and
- underwriting addresses external regulatory requirements.

Findings - Strength of Controls

Lead Business	Post bind checks and/or no oversight of UW checks 16%	Risk based pre-bind 34%	100% checked pre-bind 50%
Follow Business	No checks or only post bind checks 47%	Risk based pre-bind 31%	100% checked pre-bind 22%
Wordings Experts	None 40%	1 or 2 33%	>2 28%
Tools	None 12%	Risk based 43%	100% 40%
Other Controls	No Peer or Independent Review 24%	Peer and/or Independent Review 52%	Other (additional) controls 24%
Committee Reporting	No specific reporting 28%	Included as required 33%	Included in regular reporting 40%

Findings - Lead and Follow Business



- 33% of risks not reviewed by leader
- 66% of risks not reviewed by a follower pre-bind?



KNOW
THE
RISK!



MA Responses - Followers

“...extend the CC process to include a risk based review of a sample of ‘non-lead’ contracts based upon the following criteria...”

“We will develop a set of risk-based criteria to determine the level of due diligence.”

“We will also consider performing checks on a thematic basis in accordance with the major class renewal seasons.”


MA Responses - Additional Controls

“We have formed a working party . . . looking at broadening Peer and Independent Reviews to incorporate T&C within the peer review process.”

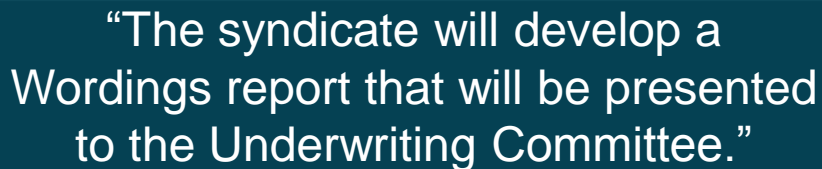
“Formalising a review/feedback process between Wordings and Claims to improve our wordings in respect of ‘lessons learnt’ from disputed claims.”

“Our Executive & Risk Committee will begin to receive Independent Review Reports, which include wording provisions specifically to ensure that all relevant issues are addressed within the reports.”

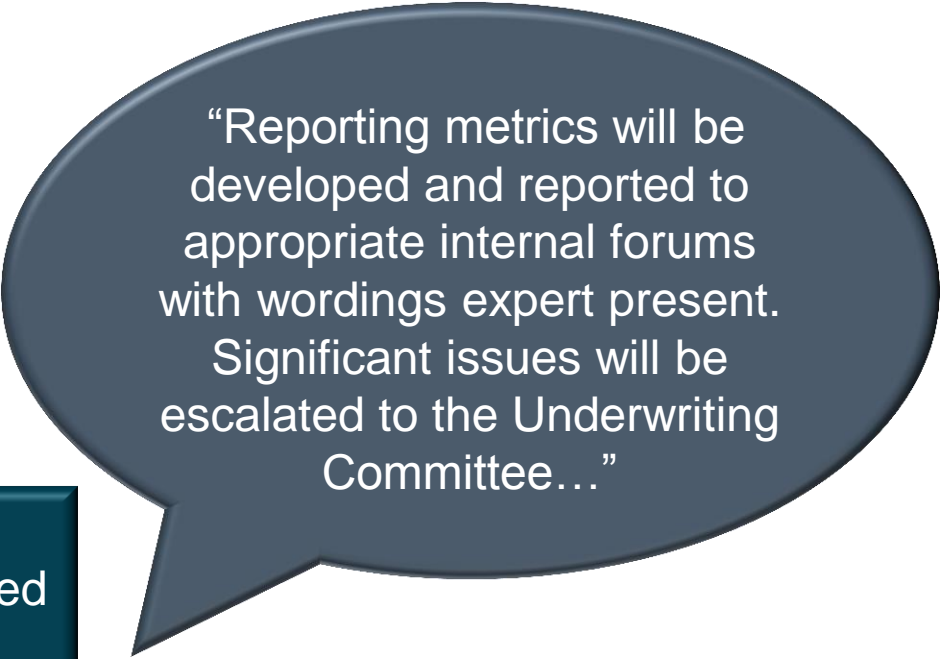
MA Responses - Committee Reporting



“We will be enhancing reporting on wordings and contract certainty themes to the Underwriting Committee.”



“The syndicate will develop a Wordings report that will be presented to the Underwriting Committee.”



“Reporting metrics will be developed and reported to appropriate internal forums with wordings expert present. Significant issues will be escalated to the Underwriting Committee...”

MA Commitment to Strengthen Controls

Lead Business	Post bind checks and/or no oversight of UW checks 16%	Post bind checks and/or no oversight of UW checks 0%
Follow Business	No checks or only post bind checks 47%	No checks or only post bind checks 7%
Wordings Experts	None 40%	None 16%
Tools	None 12%	None 5%
Other Controls	No Peer or Independent Review 24%	No Peer or Independent Review 7%
Committee Reporting	No specific reporting 28%	No specific reporting 5%

Potential Enhancements/Clarifications to Minimum Standards

UW guidelines and/or LOA
to reference Slip and
Wording agreement

Peer and Independent
Review report to include
commentary & review on
Wordings/PBQA

PBQA on a Lead and
Follow basis

Assessment and reporting
on any claims which could
have been prevented by
improved controls around
wordings

Other Actions

Lloyd's to investigate options with PPL/TOM to allow more efficient PBQA processes between Leaders and Followers

Independent Reviewer's conference
– demonstrate good and bad examples specific to review of Wordings

A Broker's Perspective

John Muir - Managing Director, Technical & Operational Practices

Policy Language

Policy language is an essential component of the overall insurance proposition – have faith in the laws of supply and demand!

Contract Certainty

Let's debunk a few myths around it and understand why it was the right thing to do – even if it was hugely popular!

Contract Certainty is very much alive and kicking, thanks to:

- **It being the right thing to have done**
- **Regulators around the world copying it shamelessly**
- **Reduced disputes/E&Os**
- **The Code of Practice**
- **The necessity to record performance**
- **The necessity to record failures**
- **The FCA!**

Broker Solutions

What are the typical solutions available to brokers to ensure that clients can be appropriately advised and their policies appropriately worded?

- **Experienced wordings specialists (not a dying breed just because we have less of them!)**
- **Access to and use of standard wordings**
- **Early engagement with insurers**
- **Access to legal specialists**
- **Specialist industry/class of business expertise.**

Market Panel

Andrew Schütte

Martin Roberts

Charlotte Myers

Teresa Bentley

Hill Dickinson

Liberty

LMA

LMG

Last year, the LMG commissioned Deloitte to conduct the first market-wide survey to identify skills gaps and gain better insight into the talent requirements of the market of the future. What were the highlights of Talent in the London Market report?

What initiatives are under way to address the gap highlighted in the report and how are the London Market bodies working together to promote the insurance industry and the London Market?

Are Graduates/Apprentices interested in working in wordings?

What are the key skills a good wordings technician needs?

Regulatory

Compliance

Understanding of
legalities

Contract Certainty

Crystal, LWR, QA tool

Underwriting
Appetite

Risk checklist



New, amended or unusual
clause/text

Established clause/text, but
change in circumstances:

Claims experience

Legal/Arbitral
interpretation

Unexpected loss

Emerging risk

Unusual loss scenario

What are we doing to develop the knowledge of people already working in the market?

Policy Wordings Under Attack: Report from the Front Line

Andrew Schütte



Reinsurance
Contract



Insurance
Contract



Construction
Contract



Corporate
Sale Contract



EPIC FAILS


Bonner v Cox [2004] EWHC 2963 (Comm)

MEMORANDUM OF UNDERSTANDING

Historically, the 77 Energy Cover was an Alexander Howden Limited market facility pitched to accept business on an excess basis. However, acknowledging prevailing market conditions in recent years, the facility has increasingly entertained business on a "ground-up" basis, and it is with this trend in mind that the estimated net premium income figure for 1999 of US\$10,000,000 has been set.

SR International Business Insurance Company Limited v World Trade Center Properties LLC

“Occurrence” shall mean all losses or damages that are attributable directly or indirectly to one cause or to one series of similar causes. All such losses will be added together and the total amount of such losses will be treated as one occurrence irrespective of the period of time or area over which such losses occur.



British-American Insurance (Kenya) Ltd v Matelec Sal [2013] EWHC 3278 (Comm)

It is hereby noted and agreed that with effect from Inception, the Law and Jurisdiction is amended to read as follows:

. . .

This reinsurance shall be governed by and construed in accordance with the law of England and Wales and each party agrees to submit to the exclusive jurisdiction of the Courts of Kenya. All disputes arising hereunder shall be submitted to a competent court in Kenya. Seat of Arbitration: London

Appointor: Appointing officers of ARIAS (UK).



Teal v Berkley [2013] UKSC 57

Deductible and/or Self-Insured Retention means the amount stated in Item 5. of the Declarations that the ***Insured*** will pay, as set forth in the Declarations, for ***Claim Expenses*** and ***Damages*** with respect to every Claim made during the Policy Period. This amount must be paid prior to the Company indemnifying the ***Insured*** under the terms and conditions of this Policy.

The original policy is governed by the laws of Bahrain and subject to the exclusive jurisdiction of the Court of Bahrain

If any difference shall arise as to the amount to be paid under this policy (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions in that behalf for the time being in force. Where any

The construction, interpretation and meaning of the terms, exclusions, limitations and conditions of this Policy shall be determined in accordance with the law(s) of Dubai and in accordance with the English text as it appears in this Policy.

“First Made” shall mean ... when a Responsible Officer first has knowledge... of any fact, circumstance or event which in the opinion of such Responsible Officer is may [sic] reasonably likely to be expected to give rise to a claim

GOOD, BAD, INDIFFERENT

Which Notification provision gives the shortest period to notify?

The insured shall report to [insurers/the broker] in writing any loss or damage occurring under this policy

(b) immediately following the occurrence

(c) within 21 days of the occurrence

(a) as soon as possible



Which extension clause is the widest?

Underwriters exclude liability for all prior circumstances of which the insured knew or ought to have known that were:

(d) that could give rise to a claim

(b) that may give rise to a claim

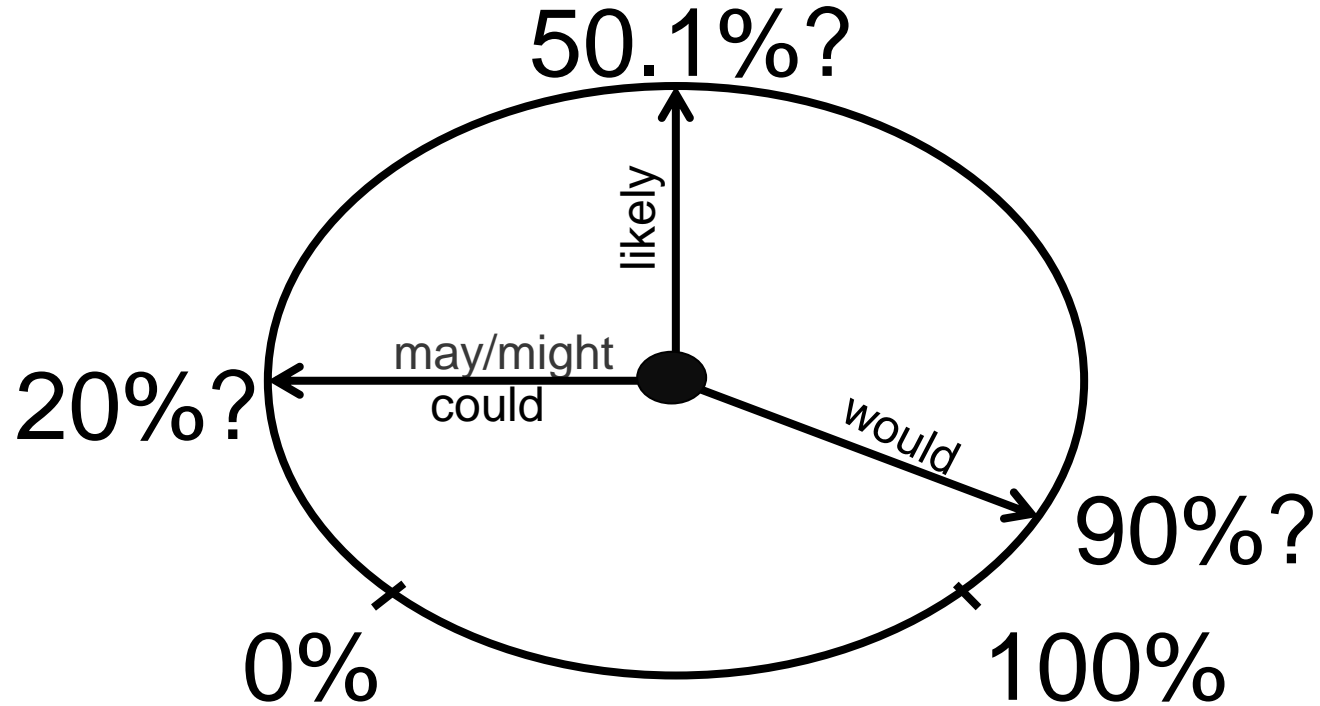
(c) that might give rise to a claim

(a) likely to give rise to a claim

(e) that would give rise to a claim



A notifiable circumstance?




Which follow settlements language binds reinsurers LEAST tightly to the settlement of the Cedant?

[silence]

All loss settlements by the Reassured including compromise settlements and the establishment of funds for the settlement of losses shall be binding upon the Reinsurers, providing such settlements are within the terms and conditions of the original policies and/or contracts (or as provided for in the Extra Contractual Obligations clause hereof) and within the terms and conditions of this Reinsurance.

Being a Reinsurance of and warranted same . . . terms and conditions as and to follow the settlements of the [reinsured]



CH-CH-CH-CHANGES

Changing landscape

Clauses

Perils

Law

Arbitration clauses



LMA ACADEMY CONTRACT WORDINGS FOUNDATION COURSE

Course objectives

- Understand what constitutes an insurance contract
- Understand the function of contract wordings in the insurance market
- Appreciate how insurance contract wordings operate in their commercial, legal and commercial context
- Spot difficult areas or problems in contract wordings
- Know when to escalate insurance contract wordings issues

Aims

6 half day modules

For insurance professionals in all disciplines and all classes of business

The difference between:

OK

Ask questions

'Treat like an unexploded bomb'

Technical, practical and fun





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