



Consumer Workshop
Presentation
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Rejections based on the condition of the insured property

**The indemnity insurance contract: Future, sudden,
unforeseen events**

- Future (not pre-existing)
- Sudden (not process of deterioration, gradual occurrences)
- Unforeseen (unexpected, not ongoing, unavoidable or forthcoming)
- Event (once-off)



Wear and Tear

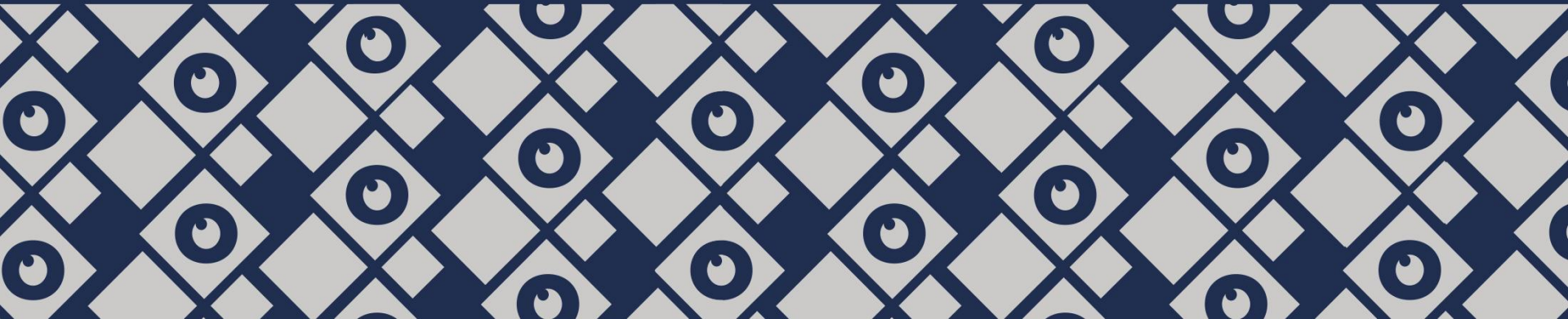
Expected damage (a given – certain to occur sooner or later)

- Process of deterioration over time
- Time or use results in poorer condition
- Exposure to natural elements (sun, wind, rain)
- Need to maintain or replace
- Consumables



Pre-existing damage/ condition?

- Motor accident occurred prior to policy inception
- Bought property at an auction, in a poor condition
- Damage that occurs over a period of time but manifests later (motor vehicle accident repairs)
- Manufacturing faults leading to susceptibility/ vulnerability
- Defective workmanship
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- Manufacturing faults leading to susceptibility/ vulnerability
- Defective workmanship



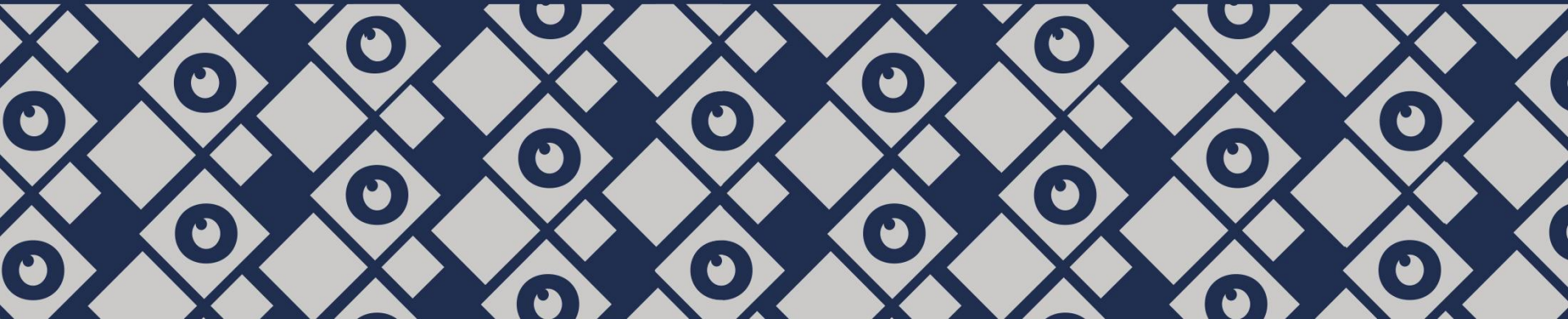
Defective workmanship/ material

- Poor construction of building.
- Inadequate (previous) repairs
- Factory faults
- Defective maintenance (roof waterproofing)
- Material used is not suitable, fit for purpose
- Misapplication
- Any other indication of inadequacy or defect



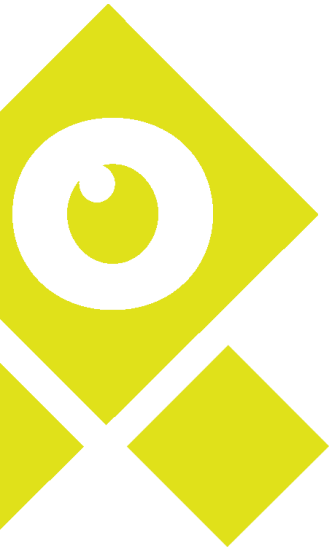
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Evidence/ Proof

- Onus lies with insured– outcomes based on discharging or not discharging onus.
- Burden may lie with insurer
- Standard – balance of probabilities
- Objective, reliable, factual
 - Expert reports and photographs
- Fairness and equity (outcomes)
 - Previous damage in same area
 - Repair method entails including unrelated areas



Case Studies

- Accidental damage (Loss took place prior to policy inception)
- Mechanical Warranty (expert reports suggesting pre-existing damage/ deterioration over time)
- Buildings (photographic evidence showing long on-going damage, rust, rot, mould)



Photographs

Question and
answer
session?

Thank you

