

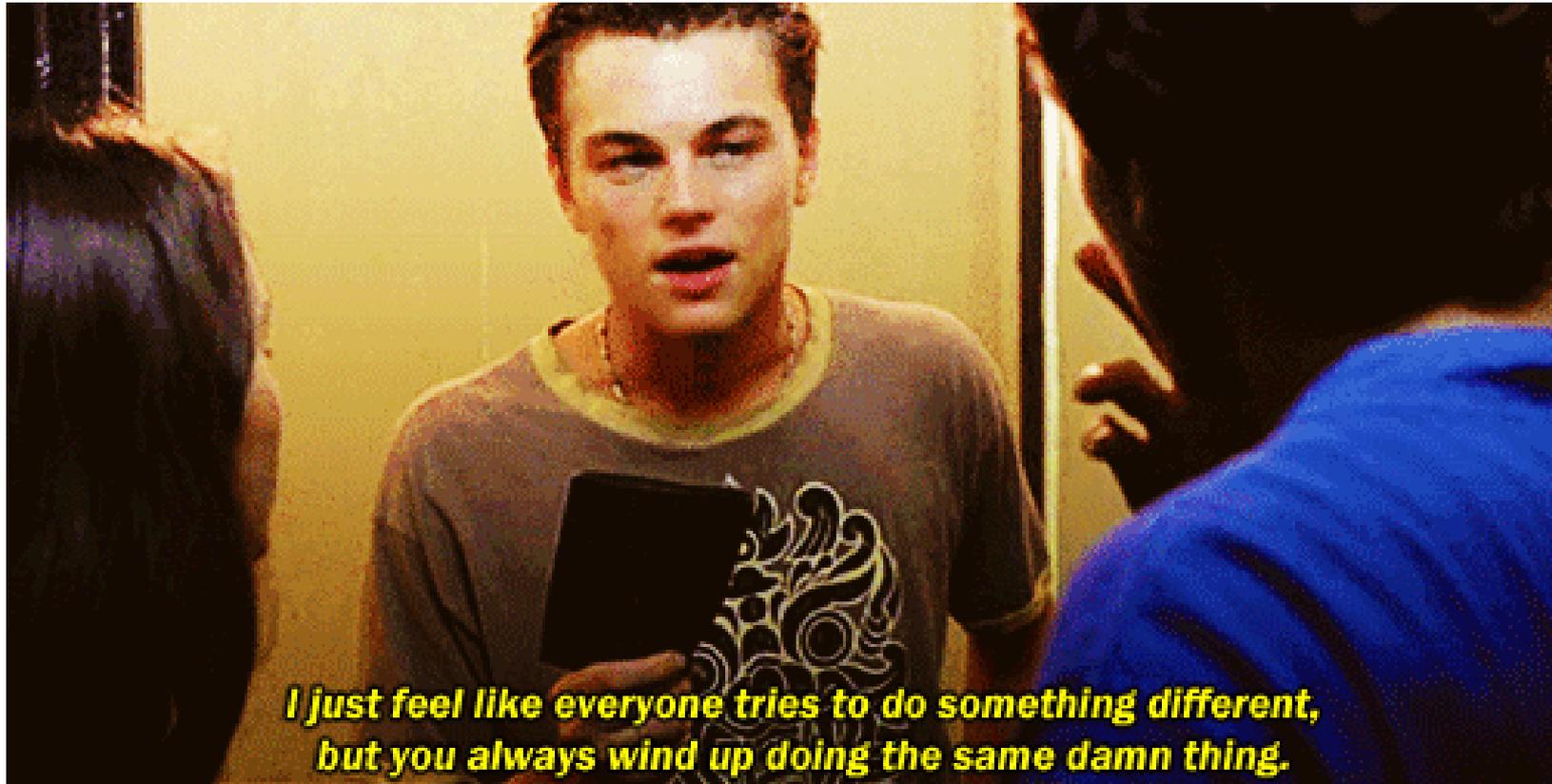
# Claims Handling on a Global Scale

Jonathan Clark  
and  
Amanda Langer

Oxford 5 July 2016

## Opening thought

---



## Common Themes: Some customer requirements of a claims team:

---

- A fair settlement
- A prompt settlement
- To be kept informed
- Communicate honestly and clearly
- Adequate resource
- Professional dealings
- Consistency
- A case manager approach
- The right expert at the right time
- Invisible internal processes
- An empowered representative
- Pre-event (loss) support



# What is different?

---



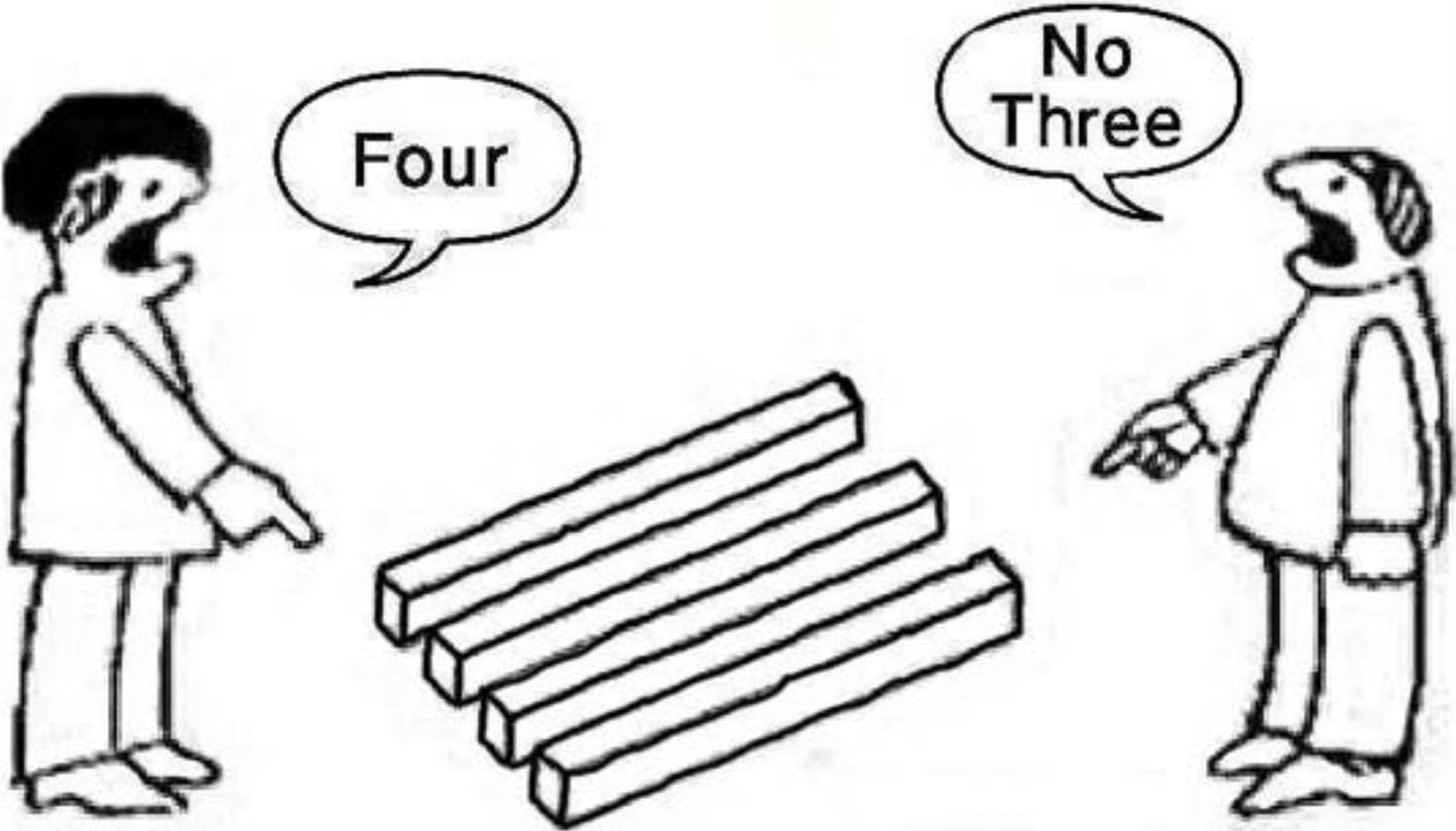
# The Human Angle

---

- ❑ Sociological / Psychological / Cultural / Ethical



What does this all mean?



Claims Handling: A balancing act

---

Legal framework

Multi-party

customer relationships

Conditions

decision

making under

pressure

managing experts

EMERGING RISKS

policy, legal liability, quantum

Contribution

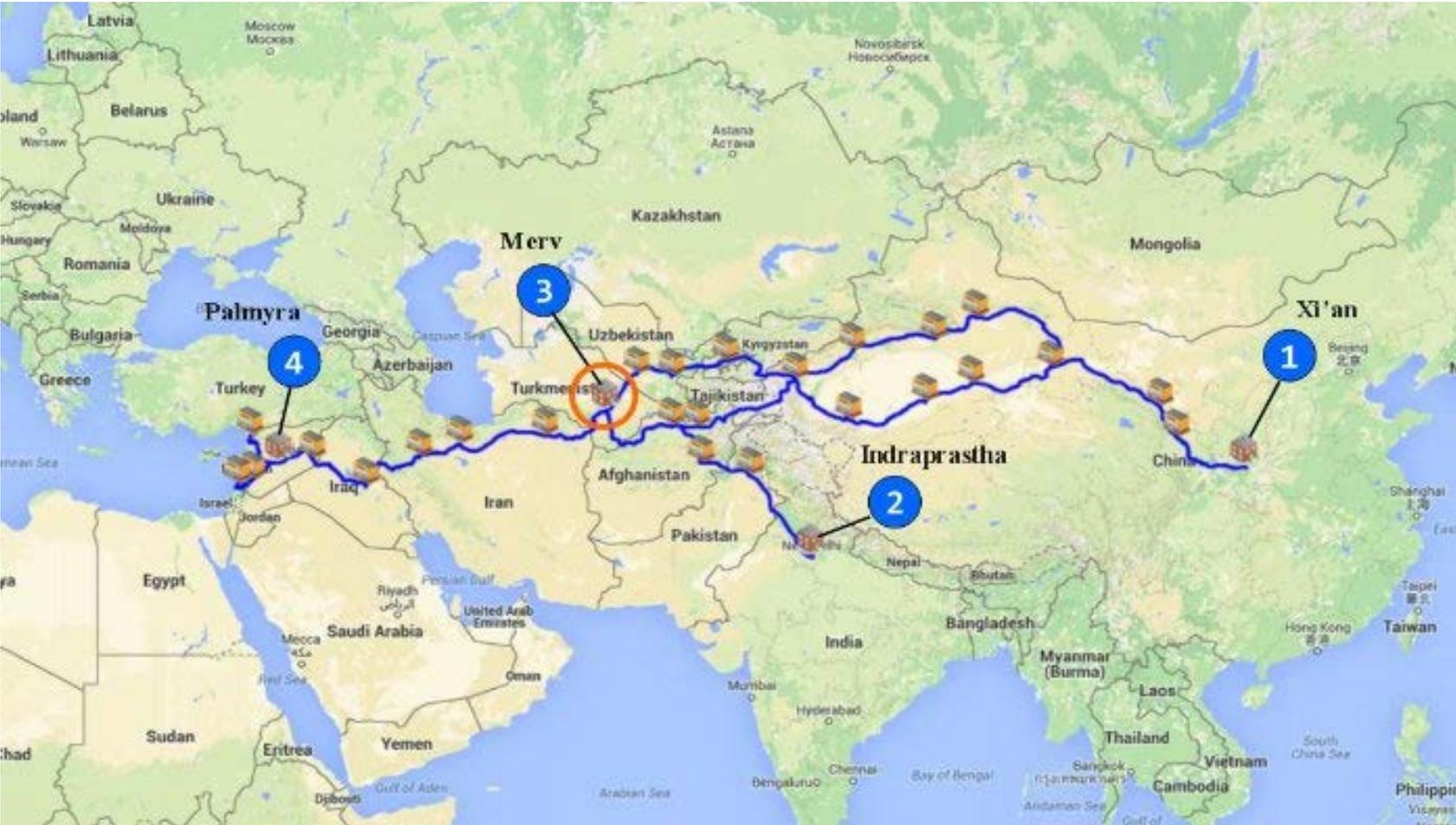
# Know your Insured's Business

---

- ❑ Know your client's business
  - Underwriting info
  - Annual accounts
  - Industry press
  - Common Risks
  - Particular Risks
  - Competitors
  - Mergers/Acquisitions
- ❑ Pre-Risk engagement with Risk manager
- ❑ Policy response scenarios – stress testing
- ❑ Lessons learnt from claims



# The Silk Road



# Supply chain management

---



# Distribution Channels

---

- ❑ Geography – topography and weather
- ❑ Emerging markets
- ❑ Access to sites and information
- ❑ Pre-binding information on customer/supply chain
- ❑ Effect on recovery actions
- ❑ Law of policy – e.g. product liability, consumer protection legislation
- ❑ Limitation
- ❑ Waiver
- ❑ Interest
- ❑ Fraud
- ❑ Cyber cover



## Scale and Geography

---

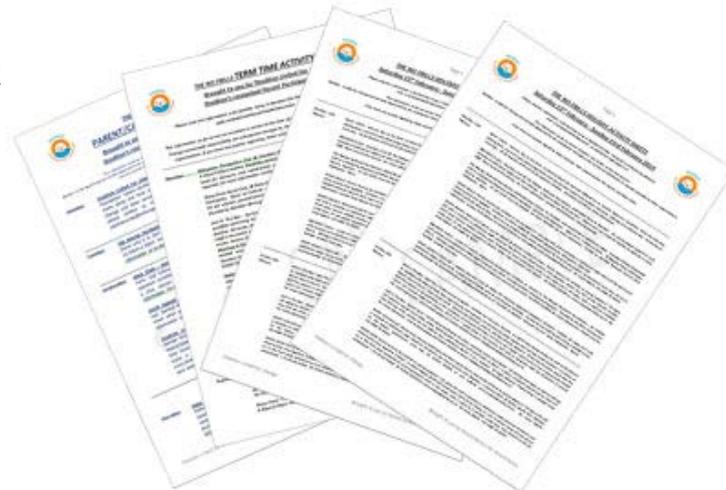
- ❑ Emerging risks countries
- ❑ Renewable energy
- ❑ Communication
- ❑ Data risks
- ❑ Different types of cover required
- ❑ Employment laws
- ❑ Mergers – clients/brokers/insurers
- ❑ Limits and sub limits



# Policy Types

---

- ❑ Classical PI cover no longer stand alone
  - Cyber
  - General Liability
  - Employment Liability
  - Single Project
  - Multiple insureds
  - Exclusions/endorsements
  - Excesses/sub limits – value and costs (included or in addition)
  - Emerging Risks e.g. drones, 3-D printing, driverless cars
- ❑ Conflicts of interest
- ❑ Interaction with other policies e.g. PL and CAR
- ❑ Freedom of contract – mandatory provisions
- ❑ Policy trigger – occurrence or claim based
- ❑ Follow form
- ❑ Aggregate Limits



## Claim Types

---

- ❑ By insured – some first party e.g. pollution/cyber
- ❑ By third party
- ❑ Can be direct against insurer in some cases
- ❑ Contribution claims
- ❑ Recovery actions
- ❑ Uninsured interest? – SIR or through tower



# Local Practices

---

- ❑ Political realities - sanctions
- ❑ Laws, regulations, customs, business practices
  - Licensing for adjusters
  - Lawyer instruction
  - Jury trials
  - Accessibility of Courts/other fora
  - Interaction with government agencies/departments including visas etc.
  - Environmental issues
  - Insurance market practices, local market organisations
  - Banking
- ❑ Language
- ❑ Relationships between brokers/clients/cedents

# Regulatory Differences

---

- ❑ Dispute forum
- ❑ Law of policy and law of claim
- ❑ Freedom of contract
- ❑ Consumer protection regulations
- ❑ Environmental legislation
- ❑ Securities legislation
- ❑ Insurance Laws
  - Policy content
  - Policy response (e.g. ROR, partial payments)
- ❑ Punitive/Exemplary Damages
- ❑ Retention/Quota share/proportional
- ❑ Limitation periods
- ❑ Cost protection
- ❑ Declinature of claims and avoidance of policy
- ❑ Ex Gratia and compromise settlements
- ❑ Claims Payments – banking regulations



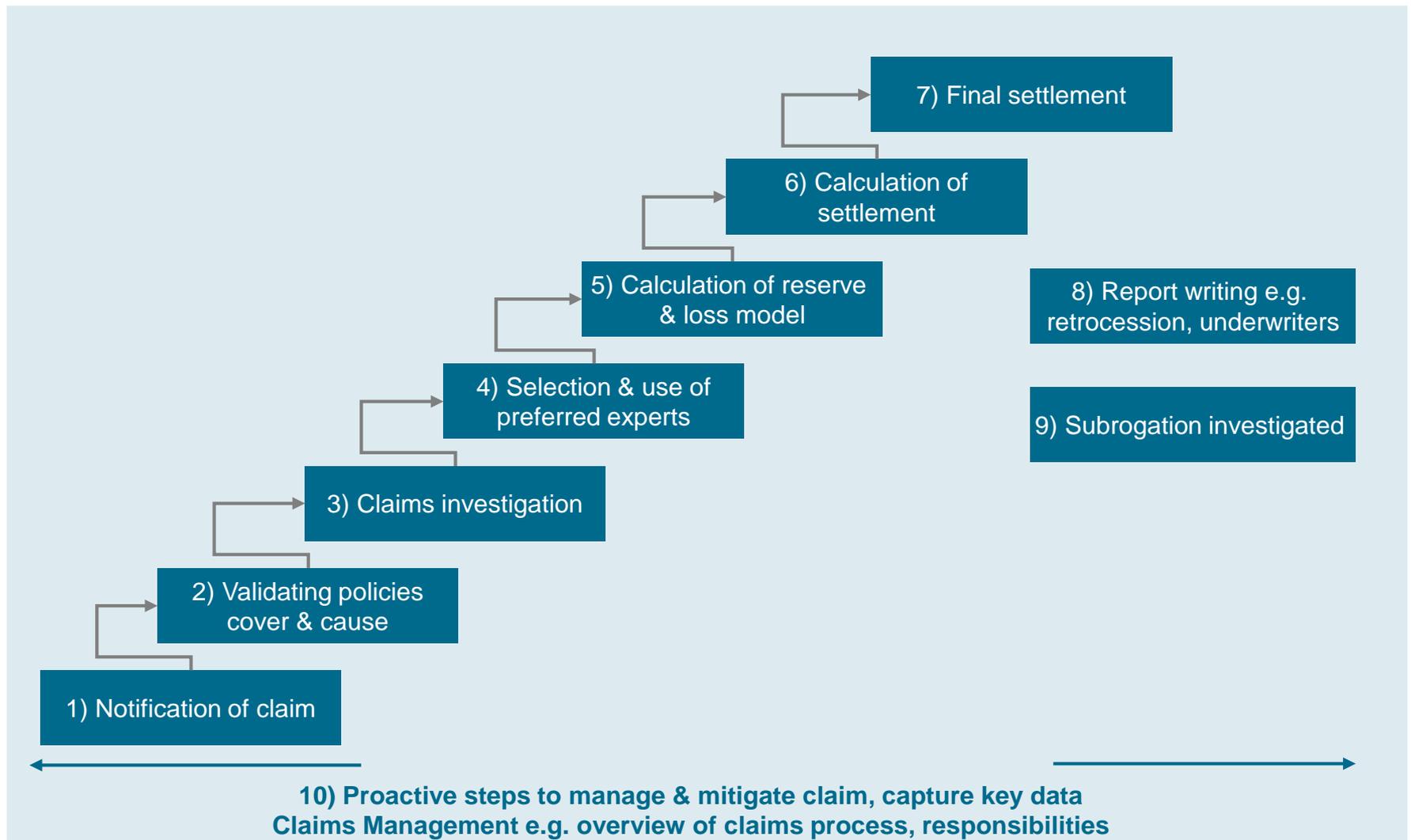
## Case Study

---

- Collapse of shelving in automated distribution unit in warehouse facility in Belgium owned by large retailer
- Shelving system designed by UK engineer subject to a UK D&B contract
- Contract contains a clause limiting the engineer's liability to 50% of the contract price, for direct losses only.
- Actual construction sub-contracted to Belgian contractor
- The retailer's estimated damages exceed 10x the contract price



## A claims process we can explain



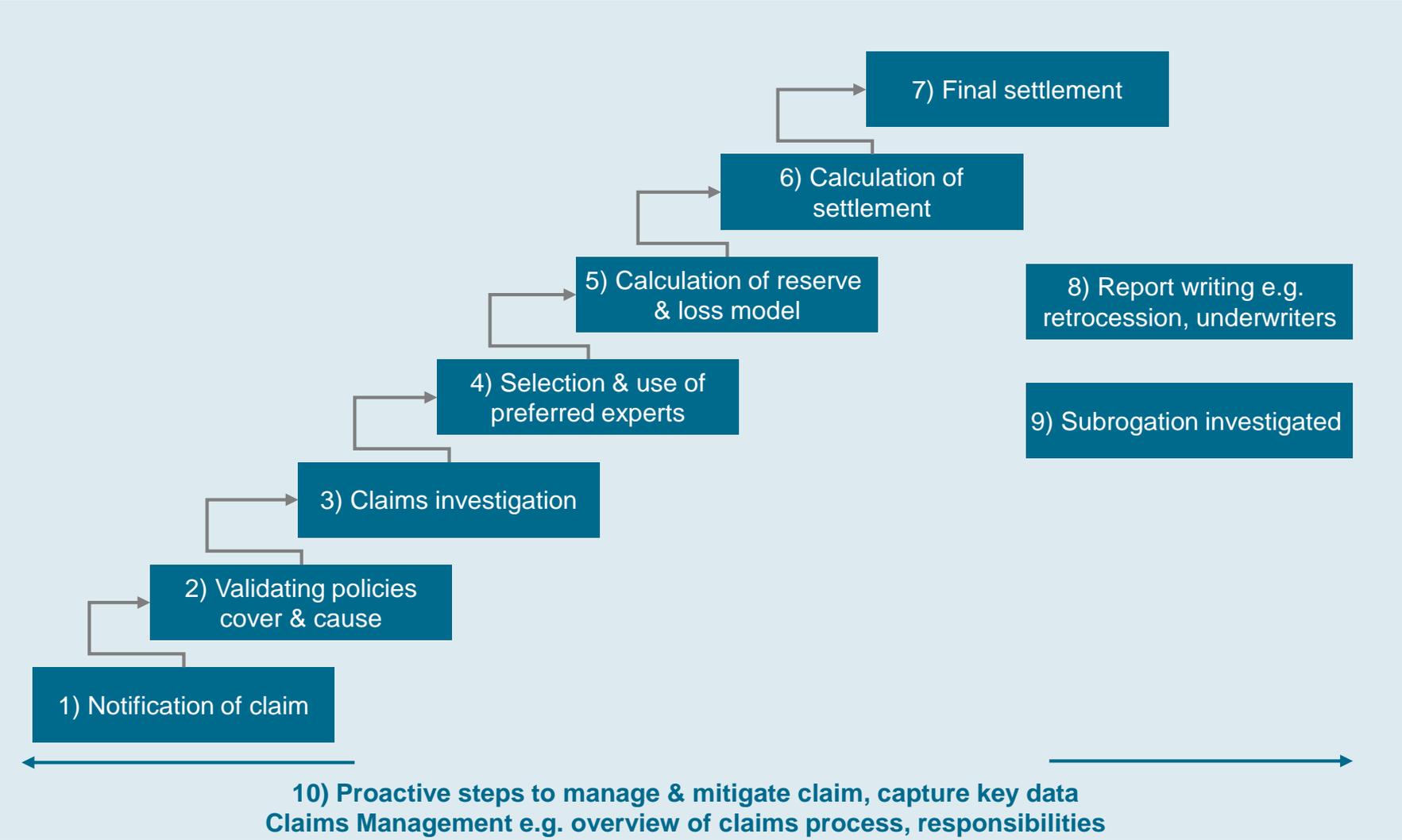
# Key claims handling considerations

---

- ❑ Legal
  - Nature and extent of damage
  - Cause of damage – negligent design, negligent construction or operating error?
  - Contract – applicable terms
  - Jurisdiction – expert advice
- ❑ Policy
  - Damage covered by Insuring clause
  - Extensions, Exclusions, Limits
  - Joint/Several liability
  - Interaction with other policies
- ❑ Quantum
  - Clean-up costs
  - Value of lost/damaged stock
  - Loss of profits
  - Cost of rebuilding facility
  - Subrogation/Contribution
- ❑ Resolution Strategy



# But the same.....



## Closing Thoughts

---

