



Preparing for Emerging Liability Risks

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Emerging Risk

Sudden large surprise...could happen.

Product defects, explosions and shifting public opinion are good examples. Asbestos, VWF, NIHL were **definitely not** examples of this.

Gradually building tensions more common but less catastrophic, unless ignored.

- Duty, e.g. silica exposure standards
- Causation, e.g. stress causes heart disease?
- Medico-legal reporting assumptions e.g. prognosis for whiplash, has drifted.

Sudden large surprise.



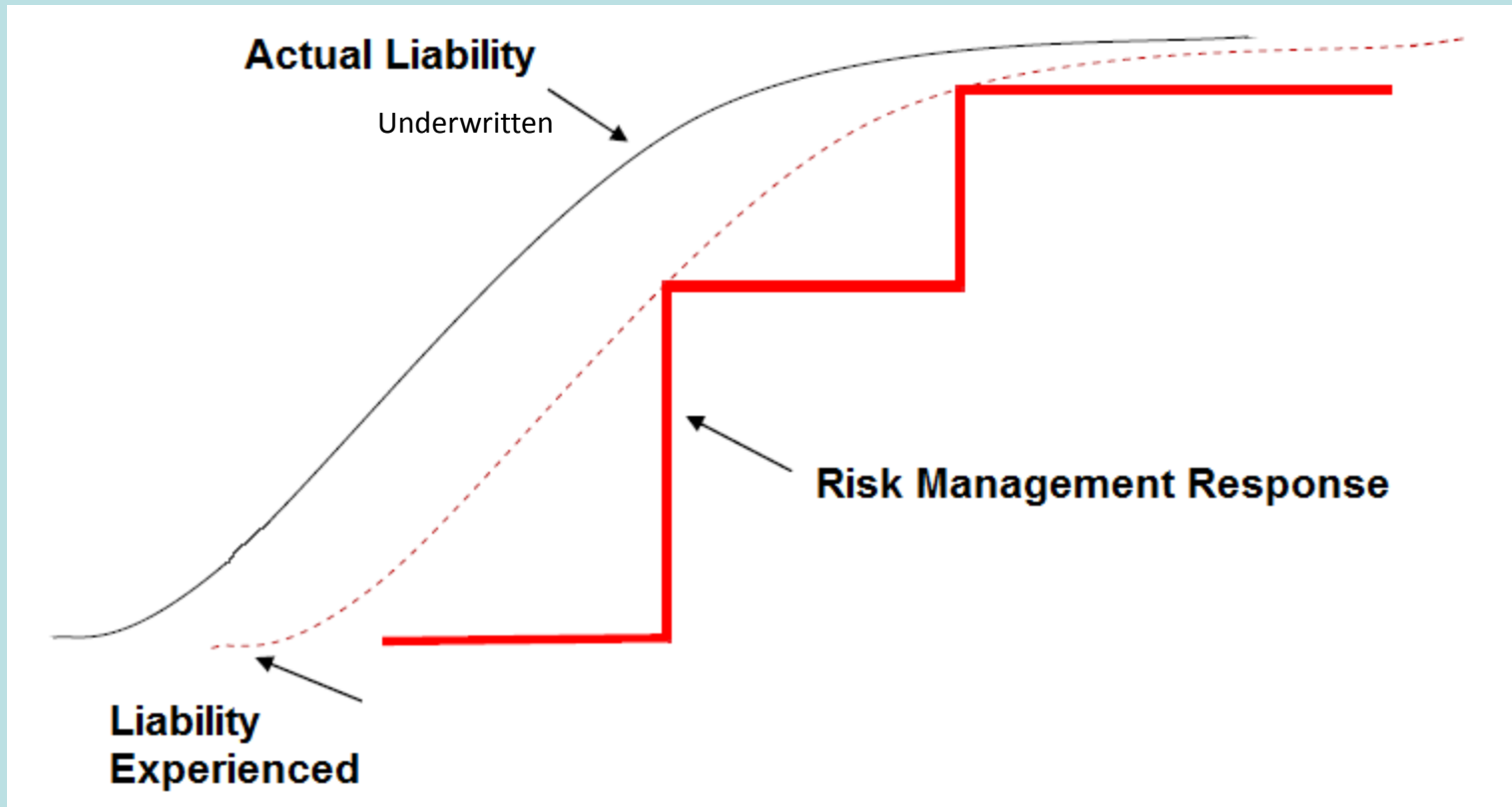
Gradual decay



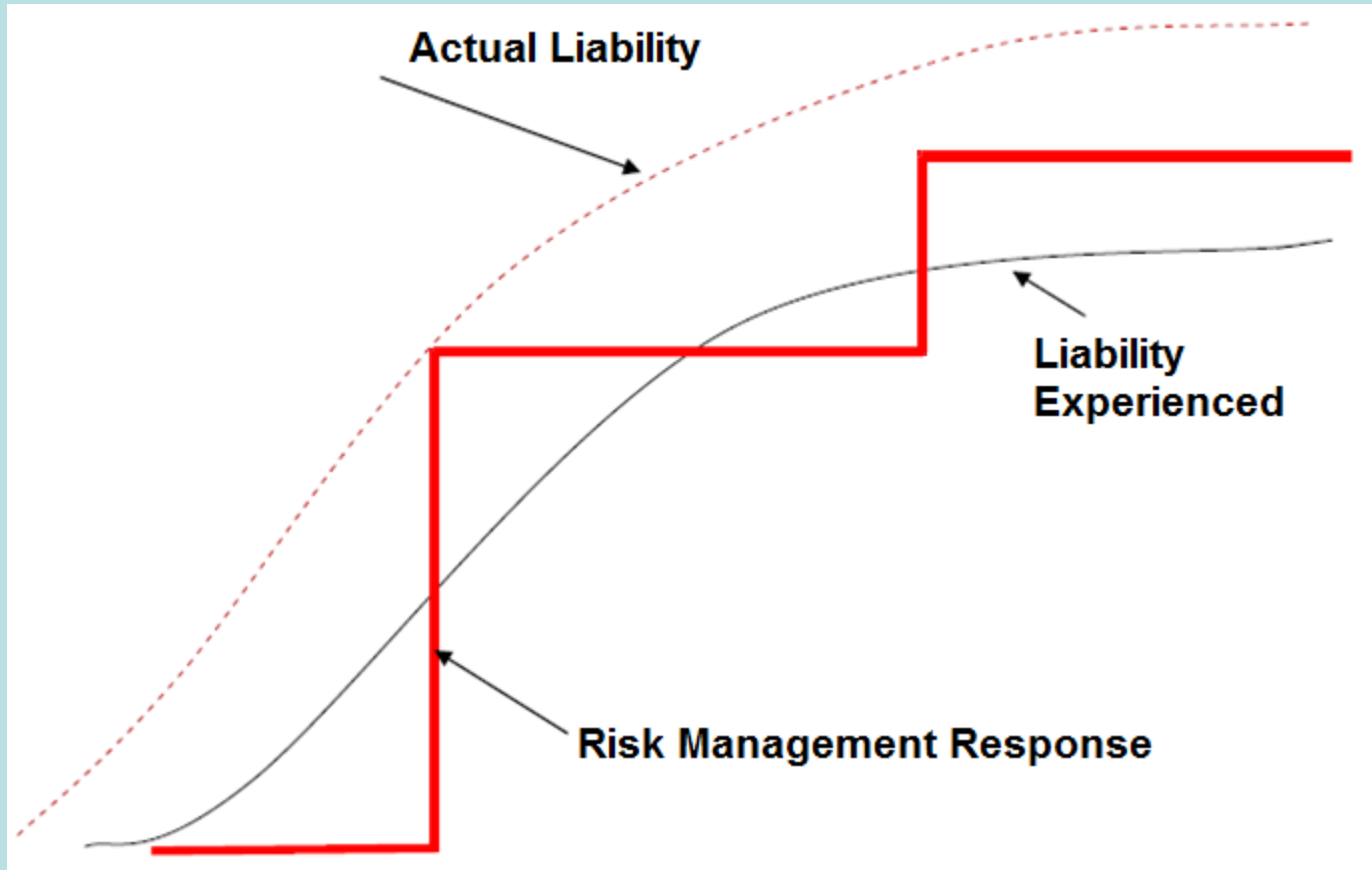
Policy

- Which model of loss most concerns you?
- Aim to manage both, proportionately.
- Identify - Evaluate - Control - Monitor.
 - 1) 4 horsemen: - Follow trade press, ties up capital, opportunity cost, insurance costs more
 - 2) Slow decay: - Understand your business, set action thresholds, control the excess new risk.

Usually



Optimum?



Choices

Each approach has a different effect on

- Efficient use of capital
- Cost of insurance
- Resilience of product line
- Apparent culpability
- Profits today or profits tomorrow
- Dependence on advice, local skill building

You have to convince your shareholders.

Risk Management

- All you need is:
 - knowledge of the current or conceptual loss mechanisms,
 - A mechanism to identify change,
 - An appropriate model to evaluate change,
 - A system which enables a strategic response and defines trigger levels.
 - There is no point in identifying and evaluating change if there is no possible response.

For Liability: Identify

Actual or likely change to:

- Duty of care,
- Frequency of exposure to hazard
- Causation,
- Material contribution
- Rehabilitation, Remediation
- Prognosis
- Diagnosis

Current mechanisms of exposure

- Employer's liability, e.g. disease
 - Public, e.g. pollution,
 - Products, e.g. defects
 - Occupier's, e.g. disease
 - Professional indemnity, e.g. design
 - D&O, e.g. volatile share price
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- Environmental impairment (EIL), e.g. new form of recompense
 - Employment practices (EPL) e.g. new definition of disability

Identify



Our Sources

- Academic journals on ecology; all major disease types; technology; market trends; climate science; civil law; social science...
- Credible web sites
- Official activity (research, pre consultation)
- You should use all of the above and your own claims trends, regulatory and lobby group interest. In proportion to your risk.

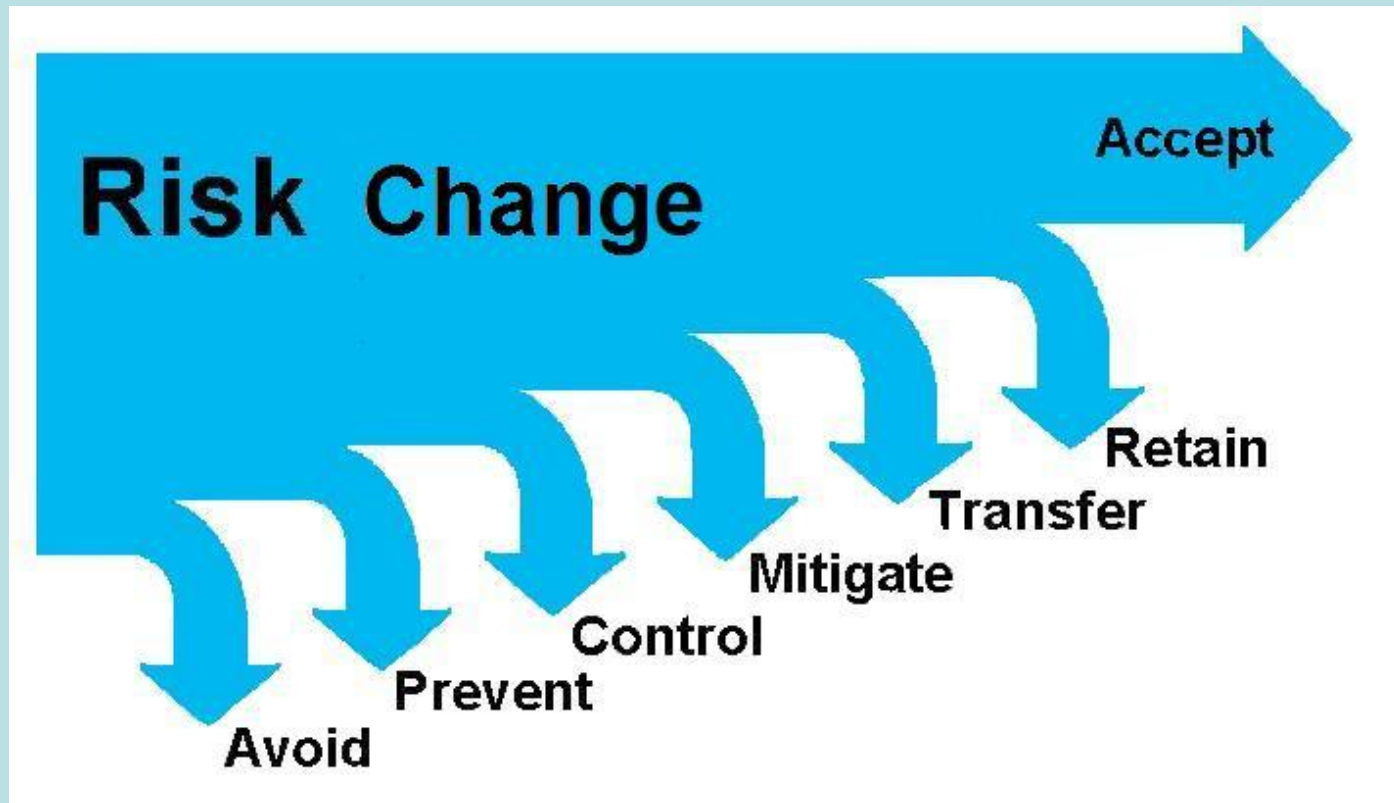
Characteristics?

- For gradual change the main skill is to characterise the uncertainties in known risk mechanisms.
- For new risks the main skill is to welcome challenges to the status quo: especially the assumptions about mechanisms and correlations

Evaluation

- Narrative
- Quantitative modelling
- Acceptability of individual loss
- Correlated losses
 - E.g. product, pollution, share price, prof ind
- We use:
 - causation modelling e.g. VWF 14 year lag
 - frequency_xseverity_xlatency models

Generic choices



Choices for Insurers

Customer Facing Strategies	Internal Strategies
<p>Policy wordings</p> <p>Premium</p> <p>Market strategy</p> <p>Defence strategy</p> <p>Public Stance</p> <p>Reinsurance, reserving...etc.</p>	<p>Loading the book with well-understood loss</p> <p>Underwriting Growth</p> <p>Strong Defence.</p> <p>Transfer (reinsurance, retention (excess))</p> <p>Reserves.</p> <p>Dilution of impact through diversity.</p> <p>Investment returns!!!!</p>

2 current issues

- Many standards are now precautionary and non-specific based on biological effect not harm. E.g. fatigue. Standards for night shift work and breast cancer would be based on sleep loss! Materiality???
- Material contribution is sufficient for causation. *Bayley v MOD*. Especially if the size of the contribution is unknown! Fatigue which should have been prevented could contribute to just about anything. [impaired recovery is a likely mechanism]

Information Noise

- Science quality
- Awareness of meaning
 - Yours, Journalists, Authors...
- Sell ability of the story
 - Positive risks are rarely reported
- BUT uncensored info is very cheap!
- Optimise your system using feedback.

Evaluation noise

- Mechanism?
 - Fatigue, loss of sleep, blood pressure, inflammation, thermal change...
- Belief in the status quo.
- Hype.
- Misunderstanding.
- BUT Expert opinion is very cheap.

Recommendation Noise

- Workplace politics.
- Competence.
- Capacity for change.
- Investment in roll-out and monitoring.
- 'More pressing matters'.
- Take-up rates are vital feedback.

Record your decision + why + why you thought it reasonable.

The *Radar Plus* Project

For liability insurers. Reports are as follows:

Reference

Summary

Background and new data

Meaning, reliability and magnitude

Strategy – e.g. risk assessment tools, defence position,
political effect etc.

Online database of >2,500 articles.

For big companies, the main change would be the recommended strategy at business stream and corporation levels.

Outputs from *Radar Plus*

- **Pleural Plaques** 1998 realised 2007 confirmed 2010
- **DSE MH** 2005 agreed in 2010 by NHS
- **OA Knee** 2005 yet to be acted upon (£200m GD in year 1) confirmed by IIAC 2008
- **Nanotechnology** 'its coming' 2003, definition 2008 insurance risk assessment 2009, **not** based on toxicology data.
- **Shift Work** 2006 breast cancer causation = NO. IIAC active on this. But cardiovascular disease – increasingly credible and, non-specific standards exist.
- **Whiplash** – Causation and prognosis models- are wrong.

Red Herring?

- Stress Management Standards 2004

From Radar in 2004

- *It will be interesting to see if the SMS are given credit for being sufficient to demonstrate regulatory compliance. If they are, then it seems inevitable that they will be used as evidence of a reasonable duty of care.*
- Non-specific, misleading, untested ...
yet loved by personnel consultants

Summary

- Emerging risk function ensures that strategic and practical responses are possible early on.
- Decision systems are needed.
- Freedom to act is required.
- A proportionate approach is needed.

Radars Plus: an Expert Narrative approach.
Using Q Modelling as a back-up.