



Society of
Claims
Professionals
Standards, Professionalism, Trust.

Good Practice Guide

July 2019

Disputed Claims for Claims Professionals

Foreword	2
Introduction	3
Good Practice	6
Conclusion	6
Appendix - Primary Source Material	7

This paper is in response to members' requests to provide a summary of good practice within one source document and is based upon the Society of Claims Professionals' understanding of the regulator's rules and current stance. Whilst a summary, it is not intended to be exhaustive and should not be relied upon at the exclusion of other sources of information.

in association with

FLAXMANS

©2019 The Chartered Insurance Institute

Foreword



Jeremy Trott

Non-Executive Director,
Society of Claims
Professionals

As customer expectations continue to rise, it is vital that within our profession we respond and adapt to this challenge. Part of this process should be a robust and transparent complaints process which is focused on getting the right outcome for all of our customers.

The claims process is at the forefront of any issues – it's the time where the promise made at the start of the policy is fulfilled. So I'd strongly argue it's the most important part of the whole insurance journey and is where, if done correctly, we can truly add value to both our customers and the wider economy.

I'd strongly encourage you to read this excellent summary of the key points around complaints resolution – really understanding complaints and compliments can be really important feedback that otherwise gets unnoticed.

The Society of Claims Professionals is grateful to Flaxmans (Insurance Dispute Resolution) for their experience and guidance in the preparation of this guide.

If you have any further thoughts or feedback, we'd love to hear from you:

info@socp.org.uk

Introduction

Why do customers make a complaint?

When a claim is disputed, or a complaint is made, the most likely reasons are because a customer was unhappy with the levels of service received, the claim paid was less than expected or they suffered a financial loss during the process of making the claim. Customer expectation of their insurance policy is at the same time both everything and nothing.

Sometimes there is an assumption of 'comprehensive cover' without understanding exactly what 'comprehensive' means. Yet there is also a belief that payment of a claim will be declined. Most complaints are about the insurer's treatment of the customer or a perceived unfairness of decision. For example, the consequences of underinsurance and the application of average will cause a financial shortfall that can severely harm a customer. Not understanding how or why it is fair will usually cause a complaint.

Insurance is a complex contract and it cannot be expected that most customers will understand it equally with insurance practitioners. The FCA recognises this and its rules make provision for dealing with complaints.

The FCA Handbook defines a complaint in DISP 1.2.1 R as:

"Any expression of dissatisfaction, whether oral or written, and whether justified or not, from or on behalf of an eligible complainant about the firm's provision of, or failure to provide, a financial service."

Most insurance practitioners will not be responsible for actually dealing with complaints day to day, but it is essential that everyone, in particular 'relevant employees', must understand how complaints are recognised and properly dealt with. Failure to understand the process can lead to an employee inadvertently making a situation worse and being held accountable for doing so.

What are the rules for handling a complaint?

All firms are required to have an internal complaint handling procedure. The procedure should provide for:

- (1) receiving complaints;
- (2) responding to complaints;
- (2A) referring complaints to other firms;
- (3) the appropriate investigation of complaints; and
- (4) notifying complainants of their right to go the Financial Ombudsman Service where relevant.

When deciding what constitutes an appropriate complaint handling procedure, a firm should have regard to:

- (1) the type of business it undertakes;
- (2) its size and organisational structure;
- (3) the nature and complexity of the complaints it is likely to receive; and
- (4) the likely number of complaints it will receive and have to investigate.

Once a complaint has been received by a respondent, the firm must:

- (1) Investigate the complaint competently, diligently and impartially, obtaining additional information as necessary.
- (2) Assess fairly, consistently and promptly, taking into account:
 - a) The subject matter of the complaint
 - b) Whether the complaint should be upheld
 - c) What remedial action or redress (or both) may be appropriate
- (3) If appropriate, whether it has reasonable grounds to be satisfied that another respondent may be solely or jointly responsible for the matter alleged in the complaint.

As there are varying degrees of severity in the type of complaint, there are also response time limits that can be applied accordingly:

- **Prompt:** On receipt of a complaint, a prompt written acknowledgement must be sent to the complainant providing early reassurance that the complaint has been received and that it is being dealt with. The complainant should be kept informed thereafter of the progress and measures being taken for the complaint's resolution.
- **Eight weeks:** The final response must be sent within an eight week period, following a fair and thorough investigation, in one of three formats:
 - **Accept**, and where appropriate offering redress or remedial action;
 - **Redress** or make remedial action, without accepting the complaint; or
 - **Reject** the complaint, giving your reasons.

If a final response is not possible within eight weeks, the complainant must be advised in writing why this is not possible at this stage, indicating when the final response is likely to be issued. At this stage the complainant must be informed that they can now refer the matter to the Financial Ombudsman Service (FOS), subject to them being an eligible complainant. This eight week period should be used wisely as the FCA expects the vast majority of complaints to reach the final response stage within this period.

The internal complaint handling procedures should enable complainants to make a complaint by any reasonable means (eg, letter, telephone, e-mail or in person). All relevant employees within the firm must also be aware of the complaints procedure and how to act in accordance with it. Copies of each complaint received, and the measures taken for its resolution, must be recorded and maintained for a period of three years, starting from the date the complaint is received.

Dissatisfied complainants

If a customer disputes the outcome of their complaint then, provided they are an eligible, genuine complainant, they may refer it to the FOS, whose new website at www.financial-ombudsman.org.uk gives all the information they need.

The customer's fear-factor

Insurers can seem intimidating from the perspective of a typical customer; just one person going up against a large organisation. A fear that the complaints will be instantly dismissed or that the insurer will deliberately tie them up in time-consuming and confusing processes.

According to consumer research, 55% of customers feel their legitimate claim will be rejected or under-paid. However, the insurance sector states publicly that it pays out over 95% of legitimate claims; but there is no way of the public knowing how true that is. This huge gap between perception and reality demonstrates why the insurance sector needs to do more to reassure the insuring public, and make it known that genuine and legitimate complaints will get a fair hearing.

Inflation, exaggeration and false claims

Unfortunately there are some instances where policyholders will set out to deceive or even defraud an insurance company, in the belief that it is the only way to get a claim paid. To some extent, that behaviour is a result of the unfortunate experiences of a few policyholders at the hands of insurance companies, that do not uphold the spirit of good faith that ought to be at the centre of the profession. This is more difficult to deal with, but it is in the best interests of all insurance professionals, with the support of the FCA, to decry the practices of the companies that bring the profession into disrepute.

One common customer practice is to inflate the value of a claim in the expectation that it will be knocked down to a level that is 'fair'. Another is to provide false information about the circumstances of the loss or damage, to avoid a policy term or exclusion. This was examined in the 2016 Insurance Fraud Taskforce Report¹ who recognised that lack of trust in the insurer can lead to "... consumers providing overly optimistic valuations or exaggerating claims in expectation that insurers will try to haggle down the settlement. Many consumers do not recognise that this behaviour is dishonest despite being at risk of submitting fraudulent claims." Honest policyholders should not need to fear their insurer. So what more should insurers do to be more approachable to their valued customers?

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/494105/PU1817_Insurance_Fraud_Taskforce.pdf

How can insurers inspire trust?

First of all, if a customer is made to feel like the 'enemy' when dealing with their insurance company, that will not only harm the reputation of the profession but it will be the first step in them becoming a lost customer to the insurer. That is not good for anyone.

The complaints procedure is closely tied in with the principles of law. As such it is developed in a way using wording that implies, if not actually says, "no admission of liability". This is often the overarching sentiment expressed by insurers at the outcome of the complaints process. Immediately, this sends negative signals to the policyholder and so sets up a tension of distrust that is difficult to dispel.

The concept of some of the best retail businesses that "the customer is always right" is more difficult to apply to insurance policies. But there is merit in considering this approach as a starting point until the facts of the complaint are fully understood, and then explaining to the customer what is actually a fair outcome.

Insurance law and practice is not always logical to the layman. For good reasons it has developed to work in practice for the underwriters that take the risks. That logic, lost on the policyholder, is at the root of the mystique that surrounds insurance; and is the main cause of most public mistrust.

Roger Flaxman, chairman and principal consultant of Flaxmans, the insurance dispute resolution company, says:

"The reason for the majority of customers complaints is a simple misunderstanding of how insurance works in practice and what is going on in the claims process. The time it takes for some claims to be dealt with and the poor communication skills of some insurance practitioners causes frustration and anger where none might have occurred if a bit more customer care was involved in the claim process. Of course some customers just like to complain; they require more particular treatment but in our experience just talking the issues through, with flexibility on both sides, solves over 90% of the complaints."

Complaints procedures should be fit for purpose and not always begin with the assumption that the insurer is always in the right. Even if the insurer is right, the customer should still be given the opportunity to explain why they think they are right, which may reveal the cause of the issue. If there was a lack of understanding from the customer, by allowing them to express their opinion demonstrably shows a level of respect and fairness. If a fair and mutual discussion takes place, a complaint could be resolved within 24 hours.

Sharing feedback

One demonstrable way of inspiring trust from customers is to track and share reviews and feedback. Tracking customer complaints should identify if there are any flaws in the process that can be improved. Sharing this information will also show that insurers recognise the customer experience and their voice. The publishing of reviews and ratings is becoming more popular on websites, with insurance firms being no exception. This publicly available information demonstrates a level of trust with the customer as well as encouraging good practice with customer engagement. It also enables individuals to feel recognised and engaged with working in claims if they can see the customer journey.

Good Practice

- 1.** Always thank the customer, within two or three days of receiving the complaint, for taking the trouble to bring it to the notice of the company.
- 2.** Never require the employee responsible for the decision that causes the complaint to be responsible for dealing with it; that is a clear conflict of interest and cannot be justified.
- 3.** Consider the complaint from the viewpoint of the customer; not just from the viewpoint of an experienced insurance expert. This will expose the misunderstanding factor that actually goes to the heart of most insurance disputes.
- 4.** Where insurance practice is the reason for not upholding a customer's complaint, go to the trouble of explaining how it works and why the decision is fair.
- 5.** If the reason for not upholding a complaint is a 'technical' reason of policy wording that gives the right to refuse, but does not need to be relied upon in this particular case, then do not rely upon it just because you can. For example, if a customer suffers a flood from a blocked drain behind the house, but whose home is within 200m of a river, do not use the 200m from river exclusion zone as a reason to deny the claim.
- 6.** Try to avoid 'having to win', ie always trying to prove the insurer (or broker) is right against the customer. Introduce a spirit of good faith and customer loyalty to the resolution of complaints and make a feature of it in the complaints process. A polite, fair, well written explanation goes a long way towards client satisfaction and loyalty.
- 7.** Above all, treat a customer with respect and courtesy throughout the process and avoid using jargon language. It puts a barrier between the firm and the customer that cements a feeling of distrust.

Conclusion

Nobody wants to receive a complaint, however they are inevitable. What is important to remember is how to handle one in a way that does not cause greater distress to the customer while demonstrating that you are also being fair. Complaints processes can adhere to the FCA's guidelines while still making customers feel they are being treated unfairly.

Complaints should also be used as an opportunity to identify how in touch with your customer you actually are. If you are consistently receiving the same type of complaint, then maybe there is something wrong with the product or service. By taking on board customer feedback you should be continually looking to improve services so that they remain relevant.

It is also possible to recognise a dispute in the making. Instead of waiting for a customer to make a complaint you should make sure you are making yourself clear and understood throughout the claims process. Reassure your customer that you are doing what you say you are doing. If they don't understand their policy, then explain any confusing details or try to present information in a way that can be understood better. For example, if you have a vulnerable customer, make sure information about the claim can be presented in a style and format that they will find approachable. If you provide a service that is both helpful and clear, this will hopefully prevent the need for a complaint to be made.

The core message from all of this is if you are treating your customers fairly. By understanding the ever changing wants and needs of customer will allow insurers to adapt and make the necessary steps towards improving public trust.

Appendix - Primary Source Material

Financial Conduct Authority

Date	Name	Description	Link
	DISP 1.10	Complaints reporting rules.	https://www.handbook.fca.org.uk/handbook/DISP/1/10.html
	DISP 1.2	Consumer awareness rules.	https://www.handbook.fca.org.uk/handbook/DISP/1/2.html
12 May 2015	Fair treatment of customers	All firms must be able to show consistently that fair treatment of customers is at the heart of their business model.	https://www.fca.org.uk/firms/fair-treatment-customers
5 April 2016	Rights of victims	FCA investigation and prosecution processes.	https://www.fca.org.uk/consumers/rights-victims
19 April 2016	How to complain	FCA complaints process for consumers.	https://www.fca.org.uk/consumers/how-complain

Financial Ombudsman Service

Name	Description	Link
For Businesses: Resolving a complaint	Guide to what happens when you receive a complaint from a customer.	https://www.financial-ombudsman.org.uk/businesses
For Businesses: Business support & engagement	How to prevent disputes.	https://www.financial-ombudsman.org.uk/businesses/business-support-engagement
For Consumers: How to complain	Bringing a complaint to the FOS.	https://www.financial-ombudsman.org.uk/consumers
For Consumers: What to expect.	What to expect once you've brought your complaint to the FOS.	https://www.financial-ombudsman.org.uk/consumers/expect

GOV.UK

Name	Description	Link
Insurance Fraud Taskforce	Investigations into the causes of fraudulent behaviour and recommend solutions to reduce the level of insurance fraud in order to ultimately lower costs and protect the interests of honest consumers.	https://www.gov.uk/government/groups/insurance-fraud-taskforce#report

