



The
Insurance
Institute

Commercial General Insurance

CIP-04 KEY POINTS

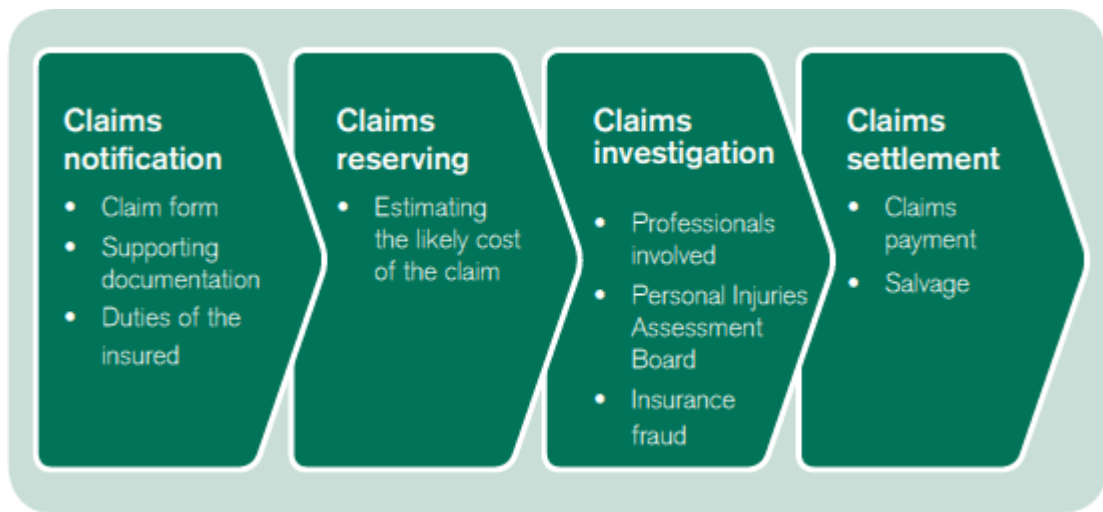


CHAPTER 7

THE CLAIMS PROCESS

The claims process for commercial insurance usually involves the following stages:

- Claims notification
- Claims reserving
- Claims investigation in practice
- Claims settlement.



Although there are common elements, handling and processing of claims will differ according to a number of factors:

- the type of insurance and cover
- the claimant
- whether the claim involves loss, injury, damage or liability
- the nature and potential size of the claim.

THE ROLE OF THE INTERMEDIARY



Client relationship

The adviser's primary responsibility is to inform the insurer of the potential claim and pass the relevant documents to the insurer within 1 business day.

Following initial notification of the claim, the nature of the intermediary's involvement will depend on a number of factors and in some cases, the intermediary may wish to be involved in the claims process to a greater extent than strictly required.

For large or complex risks, there may be a service level agreement (SLA) that assigns specific responsibilities to the intermediary.

Type of claim

The extent of the intermediary's role will vary according to the type of claim.

The intermediary can add considerable value to the claims process through their specialist knowledge of an industry or niche market.

Delegated authority

Occasionally, an intermediary may have authority to settle claims on behalf of the insurer.

In this situation, all of the insurer's regulatory obligations will fall on the intermediary.

CLAIMS NOTIFICATION

The claims notification conditions in a policy are designed to ensure:

- early investigation in order to minimise the cost
- early appointment of loss adjusters or solicitors

- detailed evidence is not lost through delay
- the insurer's financial position is accurate and up to date
- the insurer reports certain losses to reinsurers within the required timelines
- potential recoveries from third parties can be initiated.

If the policyholder fails to comply with the claims notification conditions, the insurer has grounds to reject the claim. The exception to this rule is that insurers cannot avoid Road Traffic Act (RTA) liability claims on these grounds

The insurer also has regulatory obligations at the notification stage.

Claim forms

The purpose of a claim form is to:

- Establish whether the policyholder is entitled to indemnity under the policy
- Provide sufficient information to permit the insurer to begin processing any claim
- Help the insurer decide the severity of the claim
- Help the insurer to determine liability
- Enable the insurer to take an early view on whether there is likely to be a claim from a third party
- Enable the insurer to take an early view on the possibility of recovery rights.

Other supporting documentation

Supporting documentation will vary according to the type of policy and the nature of the claim:

- receipts, estimates, valuations, photos
- vehicle service history, vehicle registration certificate, NCT certificate, a copy of the driver's licence
- audited accounts, turnover projections and details of the material damage policy in force
- copy of accident book entry, maintenance records for machinery, photos, witness statements, medical reports.

Insurer's advice to the policyholder

The insurer will also remind the policyholder of the relevant claims conditions. The policyholder must:

- take immediate action to minimise the loss
- keep any damaged items
- notify the Gardaí immediately about loss or damage by theft, malicious act or riot, strikes, civil commotion or labour disturbances
- notify the fire brigade of any fire or explosion
- send the insurer any letter, claim, writ, summons or other legal document, unanswered
- not admit liability, offer or negotiate any payment of a third party claim, unless the insurer approves this.

Checking the claim information

Once the policyholder has provided the required information, the insurer will check that:

- the cover was in force at the time of the loss
- the premium was paid in full
- the person making the claim is entitled to indemnity
- insurable interest existed at inception/renewal and at the time of the loss
- the peril (or event) is covered by the policy
- the policyholder has taken reasonable steps to minimise the loss
- all conditions and warranties have been complied with
- the principle of utmost good faith was complied with
- no exceptions or policy exclusions are relevant
- the value of the loss is accurate and is not in excess of the sum insured.

These checks will give an indication of the likely outcome of the claim. Claims may be:

- valid
- invalid
- partially met.

CLAIMS RESERVING

Insurers adopt a variety of practices at the early stages of notification. It is common for an insurer to assume, in liability situations, that the policyholder is 100% liable until it knows differently and is able to make an accurate assessment.

Larger losses and business interruption losses may not be accurately estimated until some time after the event.

When an insurer appoints a loss adjuster, they will request a preliminary report as quickly as possible.

Accuracy in reserving is very important for a number of reasons:

- Insurers must make adequate provision for their present and future claims liabilities.
- Underwriters rely on claims data when setting premium rates.
- An insurer may be required at any time to provide a report on its underwriting results or profitability.

CLAIMS INVESTIGATION

The purpose of the investigation process is to establish whether or not a claim is valid.

The claims handler

The role of the claims handler is to:

- deal with claims quickly and fairly
- distinguish between genuine and fraudulent claims
- assess the likely cost of a claim to decide on a reserve
- determine whether others should be involved
- settle claims efficiently and with minimum cost.

Where a claim cannot be settled straightaway, the handler may seek assistance from a claims investigator or a loss adjuster.

The claims investigator

A claims investigator is often an employee of the insurer, or may work on a freelance basis or for a specialist firm, and their services include:

- inspecting and photographing damaged property or an accident location
- taking a statement from the policyholder, claimant or witness about an incident
- investigating the cause of an accident
- assisting the claims handler in making an early assessment on liability
- negotiating settlement of the claim.

Loss adjusters



Where an insurer appoints a loss adjuster (or expert appraiser), it must:

- notify the policyholder of the loss adjuster's contact details
- tell the policyholder that the adjuster acts in the interest of the insurer
- advise the policyholder that they have the option to appoint a loss assessor at their own expense
- maintain a record of this notification.

The services that loss adjusters provide are:

- ensuring that all the interests of the policyholder are preserved
- ensuring that any emergency action is undertaken
- checking that the insurance cover was in force and was adequate
- acting to minimise the extent of the loss
- attempting a fair and swift settlement.

A loss adjuster will supply to the insurer:

- A preliminary report
- A final report.

They may provide an interim or series of interim reports.

Loss assessors

There are two very important differences with loss adjusters:

- The policyholder appoints the loss assessor to act entirely on their behalf and for their benefit.
- Loss assessors, who act on behalf of consumers, must be registered as insurance intermediaries under the **EC (Insurance Mediation) Regulations 2005**.

The services that loss assessors provide are:

- ensuring that the interests of the policyholder are protected
- checking that the insurance cover was in force and was adequate
- attending at the loss scene to meet with the loss adjuster
- assessing the damage and formulating the claim
- advising the policyholder on claim preparation and presentation of the claim
- advising the policyholder on options available
- negotiating and ensuring that the proposed settlement is fair and reasonable
- attempting to bring about a swift settlement.

Solicitors

In complex liability or motor claims, the insurer may appoint a solicitor to investigate or defend the claim on behalf of the policyholder against a third party claimant.

Insurers may also seek the advice of a solicitor where there is a dispute about a policy wording or the application of a principle of insurance.

Motor engineers

The motor engineer will:

- confirm that the damage has in fact occurred
- confirm the repairer's estimate
- confirm whether damaged parts should be repaired or replaced
- establish whether the vehicle can be economically repaired or it is a total loss
- oversee disposal of the vehicle and recommend a valuation
- issue a report to insurers with photos of the damaged vehicle.
- arrange for bidders to make offers for salvage.

Motor engineers deal with the damaged subject matter of insurance and the insurer; they do not deal with the claimant.

Special considerations for third party claims

Personal Injuries Assessment Board

Personal Injuries Assessment Board is the independent statutory body set up to assess compensation due to an injured party.

Personal Injuries Assessment Board will not make an assessment if:

- the injury is purely psychological
- there is insufficient precedent
- the claim arose from medical negligence.

The parties follow a formal process that is subject to strict deadlines, and according to compensation levels set by the Book of Quantum.

Insurance fraud

Insurance fraud and its prevention has become a very high profile issue in recent years.

A number of industry initiatives have been designed to deter would-be fraudsters as well as to detect fraud after the event:

- Insurance Ireland, in conjunction with An Garda Síochána, has put in place 'Guidelines for the reporting of suspected insurance fraud'.
- Insurance Ireland set up the 'Insurance Confidential' hotline in 2003.
- InsuranceLink allows insurers to cross-reference individual claims with other insurers.

The **Civil Liability and Courts Act 2004** states that if a plaintiff gives false or misleading evidence in any aspect of their claim, the court will dismiss the action unless it would result in an injustice.

This legislation also provides for fines of up to €100,000 or a term of up to 10 years' imprisonment, or both, for those who knowingly give false or misleading evidence in a personal injuries action.

On summary conviction, a fine of up to €3,000 and/or a term of imprisonment up to 12 months are the maximum penalties.

CLAIMS SETTLEMENT

The vast majority of claims are settled in a way that satisfies both the policyholder and the insurer.

However, where a policyholder is dissatisfied with an insurer's decision, they may pursue a complaint through the insurer's internal complaints procedures and/or another method of dispute resolution.

Insurers have four options when settling claims: payment of money, repair, replacement or reinstatement. The repair, replacement and reinstatement options only apply if stated in the policy.

When a motor or commercial property claim is settled on a total-loss basis, an insurer is entitled to the value of the salvage. However, the policyholder has no right to abandon the subject matter of insurance to the insurer.