The Insurance Institute

Personal General Insurance

CIP-03 KEY POINTS

Advancing *Your* Career.

CHAPTER 7

THE CLAIMS PROCESS

The different elements involved at each stage of the claims process are:

- Claims notification:
  - Claims form
  - Supporting documentation
  - Advice to the policyholder
  - Checking the claims form
- Claims reserving
  - Estimating the likely cost of the claim
- Claims investigation:
  - Professionals involved
  - Personal Injuries Assessment Board
  - Insurance fraud
- Claims settlement:
  - Claims payment
  - Salvage.

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

- 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

Relationship with consumer

The intermediary may wish to be involved in the claims process to a greater extent than strictly required in order to:

- support the client relationship and demonstrate the added value that they bring
- bring their expertise and experience for both the policyholder's and insurer's benefit
- be fully appraised of any situation in which a claim will be declined or not fully met
- assist the insurer in complex situations where the intention of the parties may be in doubt
- assist in recovering claims for uninsured losses
- provide advice to the consumer if a complaint is made following the declinature of a claim.

Type of claim

It would be unusual for an adviser to have a significant involvement in claims from third parties.

However the intermediary's role in property or own damage motor claims may be more significant.

Delegated authority

Occasionally, an intermediary may have delegated authority to settle claims on behalf of the insurer. In this situation, all of the insurer's regulatory obligations will fall upon the intermediary.

CLAIMS NOTIFICATION

For some policies, notably motor, the policyholder is obliged to report any event that is likely to give rise to a claim as soon as possible.

The policy may specify a time limit for notifying a claim to the insurer.

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 up to date
- the insurer reports certain losses to reinsurers within the required timelines
- potential recoveries 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 general rule is that insurers cannot avoid **Road Traffic Act** (RTA) liability claims on these grounds (**Sixth Motor Insurance Directive 2009**).

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, if appropriate.
- Help the insurer decide the severity (potential cost) of the claim.
- Enable the insurer to see 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, either by subrogation or contribution.

Where a claim form is needed, the Consumer Protection Code (CPC) requires the insurer to issue this document within 5 business days of the claim notification.

Other supporting documentation

In addition to the claim form, other supporting documentation may be needed, such as:

- receipts, estimates, valuations, photographs
- purchase receipt, vehicle service history, NCT
- driver's licence, vehicle registration certificate

- medical reports, death certificate
- receipt for medical expenses and medical reports.

Insurer's advice to the policyholder

At this stage insurers will advise the policyholder what to do, or what the insurers intend to do.

In order for insurers to provide an indemnity, the policyholder must adhere to the claims conditions on the policy at the time of, and immediately following, a loss.

Depending on the type of claim, the insurer will also need to take specific action when notified of an incident.

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 a person entitled to indemnity or is named in the policy
- 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 policy exceptions or exclusions are appropriate
- the value of the loss is reasonable and is not in excess of the sum insured.

Claims may be:

- Valid
- Invalid
- Partially met.

Private health insurance

The objective of claims assessment is to establish whether:

- the patient is covered under the policy
- premiums have been paid for the dates of treatment
- the hospital is covered by the policy
- costs are within the benefits specified
- the consultant is participating
- the condition is pre-existing
- relevant waiting periods have been served.

CLAIMS RESERVING

When setting a reserve, all relevant aspects must be considered. This may include damage to the policyholder's property, claims from third parties for damage to their property, personal injuries or other losses, professional fees and VAT.

Accuracy in claims 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.
- Accuracy of claims reserves is vital to any assessment of an insurer's financial performance.

CLAIMS INVESTIGATION

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 cost-effectively.

Where a claim cannot be settled straightaway, the handler may decide to make further enquiries because:

- the claim is large or complex
- the circumstances or full extent of an injury are unclear
- the policyholder's claims history is of concern
- fraud is suspected.

The claims investigator

The claims handler may appoint a claims investigator to contact the policyholder and obtain more information about an incident. This may involve:

- inspecting and photographing property or location
- taking statements about an incident
- investigating the cause of an accident or incident
- assisting the claims handler in making an early assessment of liability

- negotiating settlement of the claim.

Loss adjusters

A claims handler will typically appoint a loss adjuster for large property damage claims or those that involve complex policy wordings.

Where an insurer appoints a loss adjuster it must:

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

Loss adjusters provide services which include:

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

A loss adjuster will supply:

- A **preliminary report** on the claim, normally outlining the full circumstances surrounding the loss and a full description of the risk.
- A **final report** on the claim, providing full details of the claim presented, how settlement was calculated and the possibility of any recovery.

Loss assessors

The policyholder appoints the loss assessor to act entirely on their behalf and for their benefit.

Loss assessors must be registered as insurance intermediaries under the **EU (Insurance Distribution) Regulations 2018** and are therefore subject to the CPC, MCC and Fitness and Probity standards.

The services that loss assessors offer include:

- ensuring that the interests of the policyholder are preserved
- checking that the insurance cover was in force
- attending at the loss scene to meet with the loss adjuster appointed by the insurance company
- 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 in general about a policy wording, or the application of an insurance principle.

Doctors/hospitals

For claims involving personal injury, insurers may require that the claimant undergoes a medical examination.

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 whether it is a total loss
- oversee the disposal of the vehicle if a total loss and recommend a valuation,
- issue a report to the insurer providing photographs of the damaged vehicle.

Special considerations for third-party claims

For personal injury claims, the Personal Injuries Assessment Board (PIAB) will play a significant role in the assessment of the claim.

The Personal Injuries Assessment Board (PIAB) (formerly InjuriesBoard.ie) is the independent statutory body set up to assess compensation due to an injured party when liability is not an issue.

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

PIAB will not make an assessment if:

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

When investigating personal injury claims, insurers must take account of the PIAB procedures and timescales.

Insurance fraud

Insurance Ireland estimates that insurance fraud costs the Irish insurers and policyholders €200 million annually.

Fraud prevention has become a very high-profile issue in recent years.

All advisers need to be aware of fraud indicators. Once a defined number of indicators are present, insurers are prompted to undertake a fraud investigation.

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

- Insurance Ireland, in cooperation 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 to allow members of the public to report cases of suspected fraud.
- **InsuranceLink** allows insurers to cross-reference individual claims with other insurers.

The **Civil Liability and Courts Act 2004** states that if a plaintiff (claimant) gives false or misleading evidence in respect of 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, it's a fine of up to €3,000 and/or a term of imprisonment of up to 12 months.

CLAIM SETTLEMENT

Payment of the claim

The final stage in the claims process is the actual settlement.

The repair, replacement and reinstatement options only apply if stated in the policy. If those options are not stated, the claimant has a legal right to financial compensation. It should also be noted that the reinstatement option does not apply to motor insurance.

- Payment of money: must be made within 10 business days of their agreement to accept the settlement offer.
- Paying for repairs: the onus is on the insurer to make sure that the work is carried out to a satisfactory standard.

- Replacement: more common in personal than in commercial insurances.
- Reinstatement: for property insurance policies.
- Private health insurance claims:
  - Direct settlement claims
  - Direct to insured claims.

Salvage

When a motor or a 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 salvage to the insurer.