

# Claims practice

At the end of this unit, candidates should be able to demonstrate an understanding of:

- key aspects of the regulatory environment of insurance claims
- how to establish cover exists under the policy and how to gather information
- how to determine indemnity or liability
- how to negotiate and settle claims

## Assumed knowledge

It is assumed that the candidate already has knowledge of the fundamental principles of insurance as covered in IF1, Insurance, legal and regulatory and P05 Insurance law, or equivalent exams.

## Summary of learning outcomes

1. Know key aspects of the regulatory environment of insurance claims;
2. Understand how to determine the existence of cover;
3. Understand the importance and uses of claims information;
4. Understand how to investigate and determine indemnity or liability;
5. Understand the effective negotiation and settlement of claims.

## Notes:

- **The syllabus is examined on English law and practice.**
- **The April session will test the legal position as of 31 August of the preceding year.**
- **The October session will test the legal position as of 28 February of the same year.**

## 1. Know key aspects of the regulatory environment of insurance claims

- 1.1 Key elements of FSA regulation including ICOBS 8
- 1.2 Treating Customers Fairly
- 1.3 Regulation of Outsourcers and Third Party Administrators
- 1.4 Managing conflicts of interest
- 1.5 Consequences of failure to comply/enforcement
- 1.6 Key regulation applicable in non UK jurisdictions – California Fair Claims Practice rules and effects of non-compliance, Australian requirements

## 2. Understand how to determine the existence of cover under the policy

- 2.1 Application of fundamental policy conditions
  - 2.1.1 Claims made and losses occurring, typical notification conditions and their operation in practice, definitions of insured
  - 2.1.2 Case law in respect of the foregoing conditions
- 2.2 Application of legal principles
  - 2.2.1 Insurable interest, formation of contract, utmost good faith, duty of disclosure, misrepresentation, waiver, estoppel, indemnity, proximate cause, warranties, conditions, exclusions, impact of fraud on legality of claims
  - 2.2.2 Case law in respect of the foregoing principles

## 3. Understand the importance and uses of claims information

- 3.1 Information from insured and its uses
  - 3.1.1 Information relevant to the contract including proposal form and other underwriting information
  - 3.1.2 Typical obligations on the insured to provide information
  - 3.1.3 Role of the broker/intermediary
- 3.2 Legal opinion and its uses
  - 3.2.1 Distinction between roles of Defence and Coverage Lawyers, importance of instructions and maintaining control
- 3.3 Expert opinion and its uses
  - 3.3.1 Typical experts for a first and third party claim, and effective instruction of experts;
  - 3.3.2 Civil Procedure Rules on the use of experts
- 3.4 Supplementary information and its uses
  - 3.4.1 Police, fire brigade, witness statements, weather reports, flood reports, ABI, market sources on fraud detection, information from the underwriting function and account managers

## 4. Understand how to determine the extent of indemnity or liability

- 4.1 Application of policy limits
  - 4.1.1 Application of excesses, franchises, deductibles, Limits of indemnity and reinstatements, aggregation
- 4.2 Establishing claims quantum under first party insurances
  - 4.2.1 Application of subrogation, contribution, salvage and recoveries
  - 4.2.2 Application of average to typical claims scenarios
- 4.3 Establishing claims quantum under third party insurances
  - 4.3.1 Nature of liability – full civil liability, civil vs criminal, contract vs tort, nature of torts at issue, relevant statutory law, relevant case law demonstrating likely damages, limitation and defences, contributory negligence

## 5. Understand the effective negotiation and settlement of claims

- 5.1 Claims settlement
  - 5.1.1 Assessing the information gathered and reviewing it in light of the policy coverage consideration, proceeding to adjust and settle the claim
  - 5.1.2 Setting appropriate claims reserves
  - 5.1.3 Denial of coverage; regulatory requirements and how policy dispute will proceed if challenged
  - 5.1.4 The different demands in handling first and third party claims; FSA requirements when dealing with retail and non-retail consumers; timescales for payments
  - 5.1.5 First Party policies – impact of regulatory obligations; communication with insured, negotiation, settlement and payment of claim
  - 5.1.6 Third Party policies: The Civil Procedure framework – the Pre-action protocols, their impact on claims negotiation and settlement, potential penalties for not fulfilling the protocols;
  - 5.1.7 Internal protocols – the use of inputs from account management and underwriting functions, the importance of full corporate participation into the negotiation and settlement process
  - 5.1.8 The importance of ensuring reinsurance recoveries
  - 5.1.9 Part 36 offers, litigation process, use of Alternative Dispute Resolution; structured settlements
- 5.2 Claims issues
  - 5.2.1 Fraud detection – indicators of fraudulent claims
  - 5.2.2 Internal complaint handling processes – including good practice on drafting clients communications and escalation including role of Financial Ombudsman Service
  - 5.2.3 The use of Arbitration and Mediation

## Reading list

The following list provides details of various publications which may assist with your studies. Periodicals and publications will be of value in ensuring candidates keep up to date with developments and in providing a wider coverage of syllabus topics. Any reference materials cited are authoritative, detailed works which should be used selectively as and when required.

**Note: The examination will test the syllabus alone.** The reading list is provided for guidance only and is not in itself the subject of the examination.

CII/PFS members can borrow most of these additional study materials from CII Knowledge Services and may be able to purchase some at a special discount. For further information on lending and discounts go to [www.cii.co.uk/knowledge](http://www.cii.co.uk/knowledge).

Claims Practice. London : CII. Coursebook P85.

Fraudulent claims. Ian Youngman. London. CII Knowledge Services. Updated as necessary. Available online at [www.cii.co.uk/knowledge/factfiles](http://www.cii.co.uk/knowledge/factfiles) (CII/Personal Finance Society members only).

## Reference materials

Claims handling law and practice: a Practitioner's guide. Richard West et al. Livingstone, UK: Witherby Insurance, 2008. Dictionary of insurance. C Bennett. London: Pearson Education, 2004. Also available online at [www.cii.co.uk/knowledge/doi](http://www.cii.co.uk/knowledge/doi) (CII/ Personal Finance Society members only).

The Financial Ombudsman Service and general insurance. Peter Tyldesley, Saira Paruk. London: CII Knowledge Services. Updated as necessary. Available online at [www.cii.co.uk/knowledge/factfiles](http://www.cii.co.uk/knowledge/factfiles) (CII/Personal Finance Society members only).

Insurance claims. Alison Padfield. 2nd ed. Haywards Heath, West Sussex: Tottel, 2007.

The regulation of general insurance and protection business. Tony Wiltshire. London: CII Knowledge Services. Updated as necessary. Available online at [www.cii.co.uk/knowledge/factfiles](http://www.cii.co.uk/knowledge/factfiles) (CII/Personal Finance Society members only).

Tackling insurance fraud: law and practice. Dexter Morse, Lynn Skajaa. London: Informa Professional, 2004.

## Periodicals

Insurance Times. London: Newquest Financial Media. Weekly.

The Journal. London: The CII. Six issues a year. Also available online (CII/PFS members only) at [www.cii.co.uk/knowledge/journal](http://www.cii.co.uk/knowledge/journal)

Post Magazine. London. Timothy Benn. Weekly.

Technical Focus – Claims Faculty. London: CII Knowledge Services. Six issues a year. Available online at [www.cii.co.uk/knowledge/factfiles](http://www.cii.co.uk/knowledge/factfiles) (CII/Personal Finance Society members only).

## Websites

CII Knowledge Services:- [www.cii.co.uk/knowledge](http://www.cii.co.uk/knowledge)

## Examination guides

Guides are produced for each sitting of written answer examinations. These include the exam questions, examiners' comments on candidates' performance and key points for inclusion in answers. You are strongly advised to study guides for the last two sittings. Please visit [www.cii.co.uk](http://www.cii.co.uk) to buy online or contact CII Customer Service for further information on 020 8989 8464. Older examination guides are available (for members only) at [www.cii.co.uk/knowledge/examguides](http://www.cii.co.uk/knowledge/examguides).

## Exam technique/study skills

There are many modestly priced guides available in bookshops. You should choose one which suits your requirements. You will also find advice at [www.cii.co.uk/knowledge/careersupport](http://www.cii.co.uk/knowledge/careersupport) (CII/PFS members only).

For a more interactive approach, you should consider:

Winning the brain game. London: The CII, 2006. CD-ROM.