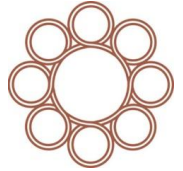


# ETHICS AND CLAIMS: an overview for insurers



Claims departments are under pressure to reform how they work. This free ebook explains five ethical issues that regulators will be paying attention to.




## ETHICS AND CLAIMS – AN OVERVIEW FOR INSURERS

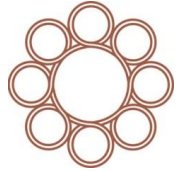
By Duncan Minty

Duncan is an ethics consultant with a particular interest in the insurance and financial planning sectors. He provides clients with greater certainty on ethical risks and opportunities, enabling them to build trust, reduce costs and enhance service. His 12 years as an independent consultant is built upon 18 years of experience in a variety of senior posts in the UK insurance sector. Duncan is a Chartered Insurance Practitioner.



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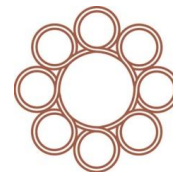
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## CONTENTS

Introduction	1
Information Asymmetry	2
Compensatory Justice	5
Conflicts of Interest	7
Privacy	9
Ethical Conduct	11

“ Claims departments are under pressure to reform how they work. ”



## Introduction

The way in which claims are handled says a lot about the values that the insurer involved works to. References to integrity and fairness will be weighed up and judged by claimants according to how they feel their claim has been dealt with. It is after all where the veracity of the promises wrapped up in the insurance policy come to be tested.

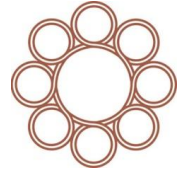
And that situation has not been lost on regulators, who seem to be besieging the insurance sector with reviews and investigations at the moment. On the claims front alone, there's the Financial Conduct Authority's (FCA) thematic reviews into personal lines claims and private investigators, the Competition Commission's (CC) investigation into certain motor claims practices and the UK Parliament's Home Affairs Committee's review into private investigators.

Claims departments are under pressure to reform how they work. Established practices will have to be questioned and some critical thinking brought to bear on the underlying assumptions that drive 'how things get done round here'.

That's why I've written this ebook. It will help claims directors to understand five big ethical issues that relate to insurance claims. These are issues of fundamental importance - insurers who are conducting internal reviews into their claims operations will need to address each of these five ethical issues, or in all likelihood, risk having the FCA and the CC question their competence. The regulatory mindset now says that if you don't recognise obvious risks like these, then you're ill equipped to spot other issues that should be on corporate radars.

Approach these five issues with an open mind. It's important not to dismiss them by reference to such and such a policy, or 'that's the way it's always been'. Remember: if you want to be innovative in your claims handling, you need to be able to stand back, see the bigger picture and reflect upon why you do what you do. Good luck!

“ reflect on why you do what you do. ”



# 1. Information Asymmetry

We all know that insurance can be a complex product. In a business to business context, this complexity is not usually an issue, for with the involvement of brokers, both sides have relatively equal levels of insurance knowledge. In personal insurance however, this complexity can create all sorts of difficulties.

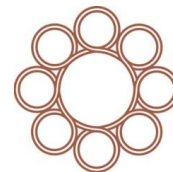
The chief difficulty that this complexity creates in personal insurances is an asymmetry of information between the insured and the policyholder, with the former knowing a lot about the insurance product and the latter knowing very little. In itself, there's nothing unusual about asymmetries of information like this, for we engage with people with specialist knowledge on an almost daily basis. However, the nature of the insurance contract, as a promise of financial reimbursement conditional on the circumstances of a loss, makes information asymmetry an important ethical issue. And it is an ethical issue that claims departments can be particularly exposed to.

Let's put it in some context first. Short of every personal lines policyholder holding an insurance qualification, information asymmetry will always be present between insurer and policyholder. So the ethics of information asymmetry lie not in how you avoid it (because you can't), but in appreciating where it's important and how you then handle it.

“ ...information asymmetry will always be present between insurer and policyholder ”

One of the reasons for professions evolving and becoming part of today's business landscape is in recognition of information asymmetry (think lawyer, accountant and doctor). It's the duty of every professional, of whatever ilk, to manage that information asymmetry with fairness and skill. How well they have done this over the years has gone a long way towards building the reputation of each particular profession.

A claims department that sees itself as part of a professional organisation, offering a professional service to its customers, needs to put information asymmetry, and all its influences and consequences, at the heart of its relationship with the policyholder. If you're a



# 1. Information Asymmetry

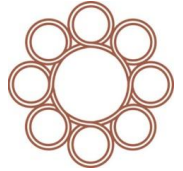
member of the Chartered Insurance Institute, or work for a firm that is Chartered or has signed the Aldermanbury Declaration, then this is an issue that should be central to your professionalism.

Policyholders sometimes accuse insurers of exploiting their lack of knowledge about insurance and in some cases, they may have a point. However, it is often the case that they feel exploited, rather than actually were exploited. Those feelings of exploitation are symptoms of that imbalance of knowledge and the sense of powerlessness that can often accompany it. So dealing positively and proactively with circumstances in which that sense of powerlessness can arise will go a long way to earning the trust of the insurance buying public. With claims often being a complex mix of money, emotion and uncertainty, claims departments are ideally placed to take this sort of initiative.

Let's look at some examples of how information asymmetry can influence the insurer and claimant relationship. Firstly, the policyholder may have read the policy, but they are unlikely to have really understood it. There's nothing unusual in this – we may cast an eye over the information slip inside a box of medicine, but rarely read all of it, let alone understand it. So when insurers complain about insureds not understanding what they've bought, those insurers are in fact voicing a lack of understanding of their customers and of what their own role as professionals really means.

Secondly, policyholders usually have little to no understanding of how the claims process itself works. This is exacerbated when insurers have created claims supply chains of some complexity. So even if a policyholder has spent time reading her policy and made an effort to understand how the policy might deal with her claim, she then finds herself in the middle of an often bewildering process that deflates her confidence and puts her on the defensive.

Thirdly, the claimant may know many things about the loss they've suffered, but they may not fully appreciate what those things mean within the context of their claim. They're not motor technicians, nor builders, for example. The insurer needs to proactively engage with the claimant about the information they need to assemble, what next steps need to be taken and who will be providing them with what service. Those insurers who approach this in a positive and supportive manner are much more likely to win the trust of the claimant (and get their job done more smoothly), than those who leave the claimant to work it out for themselves.



# 1. Information Asymmetry

Let's stick with that last example a little longer. There is of course an asymmetry of information about the loss, with the claimant knowing far more than the insurer. Every profession faces its own version of this situation and each of them uses their training and experience of many such similar situations to draw out the essential information and rebalance that asymmetry – think of the doctor and patient, and the lawyer and defendant. While it's important to bear this particular asymmetry in mind, it's also important not to trade one against the other. Information asymmetry will always have much greater implications for the claimant than for the insurer.

Each insurer will have a process map for how their claims function should progress the claims they receive. From the beginning to the end of that map will lie a series of touch points at which the insurer's claims process can engage with the claimant in a way that respects that information asymmetry. Examining those touch points from the point of view of fairness, professionalism and ethics will establish how effectively that is actually happening.

Ethics is being increasingly associated with a firm's capacity for innovative thinking (see this [post](#)). Examining the claims process for ways in which information asymmetry with the claimant can be neutralised will be one of the best ways of tapping into your firm's capacity for innovative thinking, for it encourages critical thinking around what can often be an overly familiar process. Think of it this way and you have not a stone you need to push uphill, but a platform for rolling forwards on.

“

...information asymmetry will always have  
much greater implications for the claimant”



## 2. Compensatory Justice

Insurance plays a vital role in ensuring that those legally entitled to damages receive financial compensation, as well as ensuring its quid pro quo, that those against whom damages are awarded are not financially ruined by having to find the money for themselves.

Managing a system that brings premiums in for cover against possible damages and distributes claims out for damages awarded, represents a significant contribution that insurance makes to justice and social stability. On top of this, rating factors provide a feedback mechanism to encourage better risk management, so reducing actual incidents. And a great deal of marketing and broking helps raise awareness about the importance of taking out such cover in the first place.

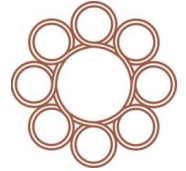
All in all, it earns insurance a big 'ethical tick'... subject of course to the caveat that the system is run efficiently and fairly. Insurance and legal liability for damages are now so intertwined that should the insurance contribution to compensatory justice fail to deliver in an efficient and fair manner, there's a risk that society's sense of fairness in the actual realisation of justice (for themselves and for others) can be undermined.

Consider the current high level of whiplash claims. It's led to a strong belief that something is systemically wrong within the system for claiming just compensation. Some people are receiving compensation that hardly seems deserved, while others could be hindered in obtaining what they do deserve. A myriad of commercial interests has resulted in a huge uplift in claims submitted and damages awarded, with, it has to be said, many firms in the insurance sector taking advantage of the opportunities this offered. All in all, this looks to be a classic example of how that social justice element of insurance needs to be more carefully looked after.

When that system of compensatory justice is under pressure, as it seems to be at present, insurers come under pressure too, both financially and reputationally. Add to that a rise in fraudulent claims and claims departments must at times feel like they're under siege from all sorts of chancers. Yet the vast bulk of claimants are genuine and their need for fair and just compensation, efficiently delivered, remains as important as ever.

There's a danger that claims departments will start to view more and more genuine claimants through the same lens as the fraudulent or opportunistic ones. Once you think of your customers in that way, it's a short step to treating them in that way. Could some





## 2. Compensatory Justice

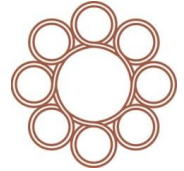
insurers be slowly drifting into just such a mindset without actually realising it? Fair claims will be overly challenged and some claimants discouraged altogether. ‘Walk away’ claimants are then labeled as potential fraudsters, withdrawing so as to find another way in, their files being marked for greater challenge next time round. It’s a downwards spiral.

Insurance is quite unusual in presenting its customers, when first using the product they’ve bought, with a minute or so of telephone script about what happens to fraudsters. Of course every claimant has to prove that their claim is genuine and of course insurers should have a claims process that challenges dubious claims, but even with fraud bills said to be as big as they are, claimants deserve to be greeted, and then treated, with a presumption of innocence.

We all benefit from damages not being too easily available, but we all lose if damages seem too hard to achieve. It may be an individual whose claim is unfairly turned down, but it is society who pays the bigger price in the long run. Think of it this way – when insurers challenge a suspicious claim, they challenge it for us all. When they quickly settle a fair claim, they settle it in such manner for us all. When they challenge too quickly or not often enough, they’ll soon find themselves on their own.

At the moment, there’s a question mark over how well insurers are doing. They’re even accused at times of being as much part of the problem as dubious lawyers or claims management companies. The challenge then is for insurers to take the middle ground where the vast bulk of claims lie and work it so efficiently and fairly that it becomes the high ground. Bring the public with them in how they do this and their returns, both financially and reputationally, will look a lot healthier.

“ ...when insurers challenge a suspicious claim, they challenge it for us all... ”



## 3. Conflicts of Interest

For the insurance sector, being in a conflict of interest is like having the flu – there’s nothing unethical about it; it’s just something that happens to us every so often. So the ethical question to be addressed is not how you avoid conflicts of interest, but how you recognise and respond to them.

Recognising and responding to conflicts of interest is not something the insurance sector has always been good at. The impact of this has ranged from multi-million pound fines for systemic failures, to a general erosion of trust with everyday policyholders. That said, it’s also important not to treat conflicts of interest as accusations – they are just situations that need to be handled properly.

Let’s look at three types of conflicts of interest that occur in insurance claims, starting with the most obvious one, between the insurer and the policyholder. There’s a tension between the insurer wanting to run a profitable business, with claims as its biggest expense, and the policyholder wanting to get a full and fair settlement of their claim. In between them sits a policy wording, the details of which are much more understood by one side than the other.

This can lead to an atmosphere of unhealthy tension, with one side viewed as using their knowledge and power to cut claim settlements in order to raise profits, and the other side viewed as perennially seeking to get more out of their claim through exaggeration or fraud. Conflicts of interest go into a dangerous slide when these perceptions are left to feed into, and reinforce, the other.

Many insurers don’t sign up to this simple view, instead seeing a happy claimant as a more profitable long term customer than an unhappy one. Delivering on such a commitment requires careful attention to how information asymmetry is managed and how a culture of honesty and integrity is maintained within the claims department.

A second type of conflict of interest lies in the various layers of the insurer’s claims supply chain. The supplier often seeks to justify its appointment with a keen eye on cost management and procedural fulfillment, the upshot of which can often leave the quality of work and the fair treatment of customers struggling to achieve an equal voice. That conflict between cost, quality and fairness will never disappear altogether, but an insurer who wants to turn happy claimants into profitable customers needs to be adept at working in non-financial ways.



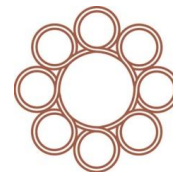
## 3. Conflicts of Interest

The third layer of conflict of interest involves one insurer covering both parties to a claim, or in similar fashion, an adjuster being on the panel of the insurers of both parties to a loss. This should be familiar ground to most insurers and adjusters who should be responding to such situations with clear and well established procedures.

Historically, a simple structure to a claims management service meant that conflicts of interest were more easily recognised and dealt with. This was because lines of control were shorter, clearer and closer to the customer. However many insurers now manage their claims through complex networks of product and service providers, with some prepared to outsource the whole lot. As a result, conflicts of interest have multiplied, both in size and complexity. This has resulted in two trends: firstly, the scope of conflicts of interest at play within a supply chain are often being underestimated, and; secondly, the controls put in place for conflicts of interest are often thought to be more effective than they really are. An eerie self confidence seems to exist at times around conflicts of interest within claims management, something that history indicates has not always been earned.

To resolve such issues, some insurers may be tempted to introduce more detailed controls for managing conflicts of interest and to use contract clauses to reinforce their adoption. Of course controls needs to be adequate and training in their use tailored and focused, but they are effective only up to a certain point. The lynch pin in their adoption and use is the ethical culture within the organisations concerned. I'll look at ethical culture in a later chapter, but suffice to say at this stage, that unless people want to use such controls and are supported in this by their firm, they are always going to struggle for attention against more attractive ones like reward and recognition.

So what can an insurer do now that would make a difference to their handling of conflicts of interest? I mentioned earlier that one of the main problems has been too narrow a scope for the conflicts of interest being addressed. One way to start tackling this issue is through constructing a comprehensive 'relationships map' for their claims service, in which is set out all of the organisations involved and the different relationships that they have with each other. By orientating this map correctly and recognising the various layers of relationship (and what flows along them) between users and providers, you'll start to get a clearer picture of the ethical risks a claims department faces from conflicts of interest.



## 4. Privacy

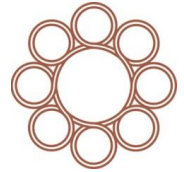
The insurance contract is an interesting example of how openness and privacy need to be balanced within a business setting. On the one hand, the insurer needs to know enough about the claim to be sure that the event was covered and that the amount being claimed for is appropriate. That can be quite a task, given the insurer knows next to nothing about the claim when it's first reported. On the other hand, the insurer's right to know is not unlimited, with both legal and ethical constraints influencing how they can assess, and if need be investigate, a claim. Such constraints exist to protect individuals from unnecessary invasions of their privacy.

It's just as important that the law of privacy be upheld as it is for the law of contract to be upheld. Both sets of law are of value to us as individuals, businesses and communities, even when at times they seem to be in tension. At the same time, insurers' rights don't take precedence over those of the claimant, even when the cost of a claim is involved. That's what 'everyone is equal before the law' means.

One crucial aspect of privacy and insurance claims is in how to interpret that earlier reference to 'unnecessary' invasions of privacy. It is absolutely right that insurers with doubts about any claims should investigate them to establish grounds upon which they can be accepted or declined. Such precautions protect the insurance buying public from unscrupulous claimants and reassure us all that valid claims will be respected.

At the same time, the law gives some protection to the privacy of all of us. We all benefit from such protection, as individuals, businesses and society overall. Despite sometimes finding that protection a barrier to what it would like to do, all insurers have an ethical duty to ensure that such rights are respected, both by their own staff and by any suppliers it may use. So for example, it is right that a claimant suspected of fraud should be investigated, but it is unethical for that claimant's young children to be put under surveillance while walking to school. We all want our children to gain their independence without fear of being watched or followed.

I've previously written about five privacy issues that insurers need to take notice of (see details of the free ebook overleaf). Of those five privacy issues, the two that claims directors need to pay most attention to are surveillance (on pages 8-11 of that ebook) and identification (on pages 12-15 of that ebook).



## 4. Privacy

With surveillance, the key challenge for claims directors is to ensure that providers of surveillance services adhere to clear standards of conduct. Such standards should cover all tiers of the surveillance supply chain and introduce consequences for non compliance (see [this link](#) for further steps that should be considered). The need for claims departments to maintain greater control over surveillance agents was made in strong terms by the UK's Information Commissioner in [evidence](#) to a Parliamentary enquiry last year.

With identification, the key challenge for claims directors is to only utilise information about the claim or claimant that comes with suitable provenance and measures of quality. As more and more data streams influence the underwriting of a policy, claims departments need to be able to isolate those around which reliable decisions can be made about individual claims.

**Free ebook:**  
**Privacy: 5 sources of ethical risk for insurers**

Find out about the background to each risk and its implications for insurance

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## 5. Ethical Culture

The final topic is ethical culture, which can be summed up as the shared beliefs about how staff should behave towards others. Every firm, large or small, has its own particular ethical culture and it's something everyone has experience of, although not usually referring to it in that way.

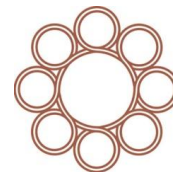
Think about some of the places you've worked. Did some of them have a different feel to others? Were some of them not very enjoyable experiences? What made some of them more fulfilling places to work than others? What you're largely recalling are the cultures in each of those firms and offices, and how those cultures influenced how you felt about working there.

Ethics, dealing as it does with standards of behaviour at work, is clearly an important dimension of a firm's culture. Any shared assumptions amongst staff about how cover is explained to claimants, or about claimants' privacy being respected, will play their part in 'how things get done round here'.

An ethical culture brings together all those assumptions about 'how things get done round here' and determines how staff engage with claimants (and other audiences such as suppliers and regulators). That engagement drives the outcomes that claimants experience and the conclusions (in terms of fairness and trust) they then draw. You can see from this that ethical culture acts as a form of overarching issue for claims departments, influencing their ability to take effective action on the ethical issues (information asymmetry, compensatory justice, conflicts of interest and privacy) mentioned in previous chapters.

Think of ethical culture as acting on three levels. The first level is that of its visible structures and processes, such as corporate values, codes of ethics, statements about how the firm works and how the firm has organised itself to deliver all this. The second level is that of the beliefs and values held up by the firm as markers of its distinctiveness and success. And the third level is that of the deep seated assumptions that actually determine behaviours and tell staff how to see, think about, and respond to people and situations.

“ Every firm, large or small, has its own particular ethical culture... ”



## 5. Ethical Culture

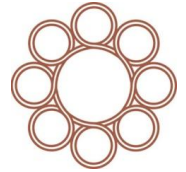
And it is those deep seated assumptions that stop the best written policies, the most detailed procedures and the most comprehensive training programmes from having the necessary impact. After the training is over and the procedures manual signed off, claims staff will largely return to working in line with those deep seated assumptions. This happens not because claims staff are unresponsive or uncaring, but because everyone in their department has been 'socialised' into thinking that certain behaviours matter most to their department's success, and also to their own personal success.

Getting claims staff to drop some of those deep seated assumptions isn't easy – they will find them too comfortable and will follow them too unawares. Yet change is possible, so long as it is carefully planned. I've just finished writing a major new paper on ethical culture (due out later this summer) and amongst the many practical steps and tips in it are these four essential steps for a change in culture:

- give staff a clear business rationale for why the firm needs to improve its ethical culture, expressed in simple but compelling terms, framed in positive language and presented as non-negotiable;
- be clear about how the firm wants staff to behave in the future and provide clear learning pathways to help them understand and absorb those new behaviours;
- revamp your policies and procedures to reinforce those new behaviours;
- reinforce that 'have to change' message with reaffirming examples set by management and those who have already made the change.

Changing those underlying assumptions about how claims are explained to claimants, how concerns are listened to, how decisions are taken (and much more), is the most important change that claims departments have to make in order to win the long term trust of claimants. Yet it will also be the most challenging change to make, and to sustain over time.

Many are facing up to that challenge. A recent [PwC survey](#) found that 62% of global insurance CEOs are currently looking at their firm's ethical culture, in order to deliver strategic goals such as innovation, customer focus and of course, integrity. It is outcomes like these that drive long term profitable growth.



## PREPARING FOR THE FCA THEMATIC REVIEW?

I've worked as a 'critical friend' with a number of firms reviewing how their values and ethics are reflected in how their people actually go about their work. My experience in both personal and commercial insurances, together with my position as a leading voice on 'ethics and insurance', means my contribution is both pragmatic and thorough. If you'd like to meet up for an informal chat about how I might help you review your firm's claims practices, get in touch.

Get in touch 