

INSURANCE BOARD OF SRI LANKA

GUIDELINES ON CONDUCTING INVESTIGATIONS ON INSURANCE CLAIMS

Part I - Introduction

1. Section 3 of the RII Act states that the object and responsibility of the Insurance Board of Sri Lanka (IBSL) shall be to ensure that the insurance business in Sri Lanka is carried on with integrity and in a professional and prudent manner with a view to safeguarding the interests of the policyholders.
2. As per Insurance Core Principle (ICP) 19 on Conduct of Business, the fair treatment of customers encompasses concepts such as ethical behavior, acting in good faith and the prohibition of abusive practices. Under ICP 19, among others, requirements have been identified to:
 - strengthen public trust and consumer confidence in the insurance sector; and
 - minimize the risk of insurers following business models that are unsustainable or pose reputational risk
3. All personnel involved in the insurance industry have a role to play in protecting/improving the image of industry and their conduct is important to develop the industry by strengthening public confidence. IBSL recognizes the requirement to engage investigators in the claims management process, to investigate and detect fraudulent claims.
4. In order to promote the public confidence on the insurance industry, insurers are expected to ensure that investigators act independently and impartially while maintaining confidentiality and being mindful of the interests of both the insurers and claimants. IBSL, in inquiring into disputes relating to insurance claims, has observed certain practices used in the investigations that may harm the image of the industry and, in particular, adversely affect the professionalism envisaged from persons engaged in the industry.
5. While acknowledging the need to identify fraudulent claims, great care should be taken in dealing professionally with claimants, witnesses, informants, etc. until a claim is identified as fraudulent based on facts and evidences collected. IBSL also notes that, in terms of article 13 of the Constitution of Sri Lanka, every person has a fundamental right to be presumed innocent until he or she is proved guilty.
6. Considering the foregoing, IBSL, in consultation with the industry, developed guidelines to insurers specifying minimum standards for conducting investigations, with the objective of promoting professionalism and enhancing the image of the industry. Insurers are required to make every endeavor to ensure that these guidelines are complied with by their investigators when conducting investigations relating to insurance claims.
7. For the purpose of the guidelines, the following definitions will be applicable:
 - 'Claim' means a formal request made to an insurer asking for a payment based on the terms of an insurance policy.
 - 'Claimant' means a person who has a right to a settlement arising from a contract of insurance.
 - 'Informant' means a person who gives information with respect to an event or incident that caused damage to the insured property.
 - 'Investigator' means a person retained by an insurer (in-house or external) to conduct investigations on claims.
 - 'Witness' means a person who has seen the event or incident that caused damage to the insured property.
8. These Guidelines will come in to effect from **1st January 2017**.

Part II - Guidelines

1. Exercise of power

- 1.1 Insurers shall endeavor to ensure that investigators do not:
- (a) act in any illegal manner in the course of duty;
 - (b) misuse their official position for any benefit or gain for themselves or another.
- 1.2 Insurers shall endeavor to ensure that the authority of investigators is limited:
- (a) to conduct an investigation and provide their opinion/views on whether the facts presented by the insured/claimant are legitimate or not; and
 - (b) if there are any doubts, to present reasons for such doubts.

2. Ethical conduct

- 2.1 Insurers shall endeavor to ensure that investigators:
- (a) observe highest degree of good faith in all transactions;
 - (b) act ethically with integrity;
 - (c) conduct business with courtesy;
 - (d) be non-judgmental and appear non-judgmental in the presence of all persons with whom contact is made in the course of duty

3. Professional conduct

- 3.1 Insurers shall endeavor to ensure that investigators:
- (a) disclose to them of any conflict of interest and decline to act, at the inception or during the course of performing duties;
 - (b) only accept or perform duties which he or she is competent to undertake;
 - (c) be objective and impartial in the conduct of duties;
 - (d) maintain confidentiality, preserve independence and neutrality in the conduct of duties;
 - (e) complete the investigation without any undue delay;
 - (f) treat all information gathered during the course of an investigation as confidential and must not deliberately or negligently reveal such information or the source of information to an unauthorized party;
 - (g) do not enter any private property, for the purpose of conducting the investigation, except on the invitation or with acceptance of the occupier;
 - (h) do not use abusive language or use/threaten physical violence towards any person in the conduct of their duties;
 - (i) comply with all applicable laws in the conduct of their duties;
 - (j) do not use any information gathered in the course of their duties for personal gain or coercion or otherwise misuse such information;
 - (k) do not act in any manner which may disrupt fairness and justice of the investigation.

4. Obtaining and recording of evidence

- 4.1 Insurers shall endeavor to ensure that investigators:
- (a) pursue all reasonable lines of inquiry (including those which may be in favor of the claim);
 - (b) observe fairness in relation to gathering of evidence, interviewing and treatment of claimants whose claim is being investigated;
 - (c) do not pose leading questions when interviewing 3rd party informants and witnesses;
 - (d) submit an affidavit certifying that the evidence produced satisfies the conditions set out in paragraphs (a), (b), (c) and (d) of subsection (1) of section 4 of Evidence (Special Provisions) Act, No. 14 of 1995, with respect to any recording of conversations submitted as evidence;
 - (e) submit only legible and clear written statements obtained from informants and witnesses;

- (f) require that informants and witnesses do read and are in agreement with the contents of the statements provided prior to placing their signatures (a statement to that effect should also be included in the statement);
- (g) do not conceal or fabricate evidence or knowingly allow any evidence to be fabricated or concealed;
- (h) do not accept from or offer any inducement, bribe or other advantage to any witness, informant or claimant;
- (i) obtain the details of all informants and witnesses;
- (j) record and retain all relevant material;
- (k) maintain a record of work with respect to all assignments;

5. Disclosure of information

- 5.1 Insurers shall endeavor to ensure that investigators disclose, in the investigation report:
- (a) all findings that are material to determine the legitimacy of the claim;
 - (b) any negative feedback received from the insured, claimant, an informant or a witness with respect to the manner in which the investigation was conducted;
 - (c) investigator's responses to such negative feedback
- 5.2 Insurers shall endeavor to ensure that investigators disclose his or her identity and the insurer on which behalf he or she is acting, if and when inquired, to any person with whom contact is made in the course of duty.

6. Presentation of reports

- 6.1 Insurers shall endeavor to ensure that the investigation reports:
- (a) are submitted to them as expeditiously as possible;
 - (b) contain the names, NIC numbers (where possible) and contact details (postal address and a telephone/mobile number) of all 3rd party informants and witnesses, for the purpose of verification, if the final opinion/view of investigator is based on any statement obtained from such 3rd party;
 - (c) contain clear and specific references to facts and findings on which his or her recommendation is based.

7. Capacity building

- 7.1 Insurers shall endeavor to ensure that investigators:
- (a) possess required technical and professional knowledge and skills to conduct investigations;
 - (b) are encouraged to enhance knowledge on the developments in the field of insurance investigations and the expertise required in conducting their duties.