

COMPLAINTS AT LLOYD'S

Recent developments in UK complaints handling – An update for Coverholders & TPAs

In this note we provide coverholders and third party administrators (TPAs) with:

- A brief introduction to UK complaints handling at Lloyd's
- Details of the latest rule changes for complaints handling
- Details of Lloyd's new model guide for producing a complaints handling procedure for Lloyd's complaints

As this note explains the Lloyd's view of the latest UK regulatory rule changes, managing agents will not be separately contacting you to explain these points. They will, however, need to agree with you the practical arrangements to give effect to these changes.

1. A brief introduction to UK complaints handling at Lloyd's

Lloyd's operates a two-stage process for handling complaints. At the first stage, managing agents are responsible for responding to the complaint. They can do this themselves or they can ask their coverholders or TPAs to handle the complaint on their behalf. For coverholder, this will be addressed in their binding authority agreement. In general terms, a complaint is any 'expression of dissatisfaction' made by an eligible complainant. Eligible complainants are, broadly, private individuals and small businesses, known as micro-enterprises (but it is important to check the FCA's definition when deciding if someone is an eligible complainant).

When complaints are first received they must be acknowledged promptly and in writing. The complaint then needs to be reviewed and the complainant provided with a response (Stage 1). Where appropriate, the complainant should be offered redress or remedial action. The complainant must also be told in the response that they have the right to have the complaint reviewed by Lloyd's (Stage 2) and the response must inform the complainant of the ultimate availability of the Financial Ombudsman Service. Responses should generally be sent within two weeks and no later than four weeks from receipt of the complaint. Where a Stage 1 response cannot be sent within two weeks then a letter must be sent to the complainant stating that investigations are still ongoing and saying when, within the next two weeks, a response will be sent. The letter must inform the complainant that they can, if they wish at this stage, ask Lloyd's to carry out a review of the complaint.

If the complainant remains dissatisfied after receiving a Stage 1 response, then they are able to ask Lloyd's for a Stage 2 review of the complaint. In reviewing the complaint Lloyd's will investigate the matter with the managing agents and will review all relevant documents. A final response to the complaint will be sent by Lloyd's and Lloyd's will also inform the

complainant that if they remain dissatisfied they may be able to have their complaint considered by the Financial Ombudsman Service.

So that Lloyd's can monitor and report on complaints to the FCA, all new complaints must be notified to Lloyd's within seven days of receipt using the template prepared by Lloyd's for this purpose and you will need to agree with your managing agents the process for ensuring this template is completed. Some managing agents may ask you to complete and return the template to Lloyd's whereas other managing agents may ask you to provide them with the relevant information and they will take responsibility for sending the completed template to Lloyd's. Whoever completes the template should also include all complaints resolved informally, where a summary resolution communication has been sent (see below). Note that where Lloyd's has asked for complaints to be reported to it, Lloyd's will be responsible for reporting those details to the FCA. It is therefore important that coverholders and TPAs do not also include these complaints in their own FCA reporting, as this will result in the double reporting of complaints.

Lloyd's detailed requirements for complaints handling are contained in our 'Code for Underwriting Agents: UK Personal Lines Claims & Complaints Handling'.

Lloyd's has also produced 'Handling Complaints at Lloyd's: Guidance for managing agents and their representatives', which is a practical guide to how to comply with the Code.

Both of these documents can be downloaded at www.lloyds.com/complaintshandling.

2. Complaints resolved by the close of the third business day

With effect from 30 June 2016, the FCA has changed its rules for complaints resolved informally. Before 30 June 2016, complaints resolved by the close of the next business day could be dealt with informally and did not have to be included in the complaints statistics which firms must send to the FCA. The FCA has now updated its rules and complaints can be resolved informally until the close of the third business day following the day on which the complaint is received. However, where complaints have been resolved informally, the FCA has imposed two additional requirements:

- Following resolution of the complaint, the complainant must receive a 'summary resolution communication' (SRC) confirming the complaint has been resolved and informing the complainant that they still may have the right to refer the complaint to the Financial Ombudsman Service. For Lloyd's policies the SRC should also refer to the right to have Lloyd's review the complaint.
- All complaints, including those resolved informally must now be included in the statistics sent to the FCA.

For complaints resolved informally, it is important to highlight the FCA rules which state:

“A complaint is resolved where the complainant has indicated acceptance of a response from the respondent, with neither the response nor acceptance having to be in writing.”

It is important to note therefore, that for any complaint to be regarded as resolved within this new three business day period the complainant must have confirmed their acceptance of whatever proposed resolution has been offered during the discussions with the complainant.

Lloyd's has specified the wording that must be used for SRCs which can be obtained via your Lloyd's broker or at www.lloyds.com/complaintshandling. We have advised managing agents that we do not expect any different wording to be used. SRCs must be sent within five business days of the complaint being received.

Complaints resolved informally will also now need to be included in the complaints statistics reportable to the FCA. Where coverholders or TPAs have complaints handling authority, we do not expect managing agents to routinely 'pre-approve' the summary resolution.

3. EU ODR Platform

The European Union has recently established its own online dispute resolution (ODR) platform. This platform allows consumers to submit a complaint via the EU's online platform. The platform is primarily intended to facilitate the making of complaints by consumers to traders in other EU states but UK coverholders and TPAs need to be aware of and comply with the rules while the United Kingdom remains a member of the EU.

Lloyd's already provides arrangements for complaints handling and where complainants remain dissatisfied policyholders are able to refer their complaints in the UK to the Financial Ombudsman service.

However, where coverholders sell policies online (and the definition is a wide one), they will need to ensure compliance with the EU's ODR Regulation, which has been implemented in the UK. To do this, they need to provide policyholders with the following information:

- a link on their website to the ODR platform, irrespective of whether they currently market their products or services to consumers in other member states. Note that all coverholders and TPAs should already have appropriate information about how to make a complaint on their websites.
- an email address on their website so that consumers have a first contact point. This could be the email address of an individual or a shared mailbox that has been set up to deal with complaints.
- a link to the ODR platform in any emails sent to consumers offering insurance products as well as making consumers aware of the possibility of using the ODR platform for resolving their disputes. It is recommended that this information should follow contact information for making complaints to Lloyd's and, in the UK, the Financial Ombudsman Service.
- this information must also be provided in the general terms and conditions applicable to online sales and service contracts – again this is in addition to direct contact information for the making of complaints to Lloyd's and, in the UK, the Financial Ombudsman Service.

The website address for the ODR platform is: <http://ec.europa.eu/odr>.

The Department for Business, Innovation and Skills has produced '[The Alternative Dispute Resolution Regulations – Guidance for Business](#)' (9 December 2015) which provides more information on the ODR platform.

4. Rules limiting costs of calls

Coverholders and TPAs are reminded that since 26 October 2015 policyholders should not be required to pay more than the 'basic rate' for the cost of calls when making a complaint. The basic rate is the simple cost of the connection and must not provide the coverholder or TPA with a contribution to its costs or revenues.

5. Creating a procedure for UK complaints

A number of coverholders and TPAs have asked Lloyd's for assistance with drafting procedures that can be adopted for handling UK complaints at Lloyd's. We have therefore come up with a new document, intended for use by coverholders and TPAs called 'Creating a Procedure for UK Complaints'. It provides a practical step by step guide to complaints handling at Lloyd's as it is relevant to coverholders and TPAs. It also includes example wording that can be included in any document. Use of this template is not mandatory.

To download a copy of the guide, visit: www.lloyds.com/complaintshandling.

Further information

Full details and guidance on Lloyd's arrangements for UK complaints and to find a range of model wordings that can be used to assist with complaints handling go to www.lloyds.com/complaintshandling.

Any questions regarding complaints handling should, in the first instance, be addressed to your Lloyd's managing agents via your Lloyd's broker.

Alternatively, you can contact Lloyd's Complaints Helpline on 020 7327 5696.