

Claims Portal Ltd Behaviour Committee Guidance

<p>Reference:</p>	<p>BCG1</p> <p><i>The content of this guidance note is a recommendation and not intended to be binding on the parties.</i></p>
<p>Details of the Issue: Direct Contact with Represented Clients</p>	
<p>Details of Behaviour</p>	
<p>Behaviour Issue:</p>	<p>This matter concerns Insurers contacting injured persons directly for purposes other than the validation of instructions upon receipt of the Claim Notification Form.</p>
<p>Outcome:</p> <p>The outcome of the Behaviour Committee’s considerations will be in the form of general guidance which is not intended to be binding on the parties but which will be published by Claims Portal Ltd.</p>	<p>There is no doubt that this behaviour breaches the principle of ‘treating the customer fairly’ under the Third Party Assistance Code of Practice (see the link below for guidance). This applies to those seeking redress and with whom an insurer may seek to deal with directly.</p> <p>The Behaviour Committee is clear that once an Insurer or other compensator is aware that a solicitor is acting there should be no contact with the claimant except through that solicitor, other than for the purpose of validating instructions.</p> <p>In essence insurers are entitled to validate the claim by confirming instruction. We understand from similar complaints that this approach has been adopted by some insurers due to the common issue of more than one claimant representative attempting to represent claimants and to mitigate potential fraud risks.</p>
<p>Action:</p>	<p>The Behaviour Committee believes that it may be appropriate that Claimant Representatives should raise individual cases with the FCA and the Information Commissioners Office so that they are aware of the concerns. It is then a matter for the regulator to consider. Claims Portal Ltd intends to raise this matter with the appropriate authorities and regulators, including the FCA and the Information Commissioners Office.</p> <p>Consideration is also being given to other actions that may help to eradicate such behaviour, including ‘naming and shaming’.</p>

Related Documents / Information

1. ABI's Code of Practice on Third Party Assistance:

<https://www.abi.org.uk/globalassets/sitecore/files/documents/publications/public/migrated/motor/abi-code-of-practice---third-party-assistance.pdf>

2. Guidance for insurer to claimant direct contact.

As mentioned above, insurers are entitled to validate the claim by confirming instruction. We understand from similar complaints that this approach has been adopted by some insurers due to the common issue of more than one claimant representative attempting to represent claimants and to mitigate potential fraud risks.

We cannot give specific guidance on wording; however an enquiry to confirm the validity of instructions is acceptable, whereas anything more than that is not acceptable. The following wording would appear to strike the correct balance, but each case will be judged on its own merits:

We have received formal notification that you intend to claim against our policyholder for bodily injury sustained in a road traffic accident. This notification was received from, who have confirmed that they have instructions from you. We attach a copy of the notification we have received.

What you need to do now:

a) If you have instructed the company:

If the company referred to above is known to you and you have provided them with formal instructions to pursue a claim on your behalf, we simply ask that you contact us with confirmation. You can do this by one of the following methods:

- *Call us on....*
- *Email us at.....*
- *Write to us at.....(insurers may consider including a tick box type response form to aid a response from the claimant.)*

Following confirmation from you, all further communication regarding your claim will be directed to the solicitors and you will receive no further contact from us directly.

b) If you have not instructed the company:

If the company referred to above is not known to you and you have not provided them with formal instructions to pursue a claim on your behalf please contact us. You can do this by one of the following methods:

- *Call us on....*

- Email us at.....
- Write to us at.....(insurers may consider including a tick box type response form to aid a response from the claimant.)

If advising that you have not instructed the company then please confirm that you will be addressing this with them.

We look forward to hearing from you.

3. Copy text of letter sent to Insurer identified to the Behaviour Committee.

Post CNF direct contact by compensator

Following receipt of a complaint(s) (ref(s): xxxxx) about your company the matter was considered at the Claims Portal Behaviour Committee. This Committee has a balance to reflect the views of insurers and claimant representatives. It appears from the documentation that you are contacting injured people directly for reasons other than the validation of instruction even after the CNF was submitted via the portal.

The Behaviour Committee is clear that once an insurer or other compensator is aware that a solicitor is acting there should be no contact with the claimant except through that solicitor, for reasons other than the validation of instruction. We have no doubt that your behaviour breaches the principle of “treating the customer fairly” (which applies to those seeking redress and with whom an insurer may seek to deal with directly). We intend to raise such matters with the appropriate authorities and regulators, including the FCA and the Information Commissioners Office, unless we receive assurances that such activity will cease.

We will also consider other action that may help to eradicate such behaviour, including “naming and shaming”, or suspension from use of the Portal.

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