



Tried and True

**The CIP Society
Ethics Series**

The CIP Society
Insurance Institute
of Canada

The CIP Society represents more than 17,000 graduates of the Insurance Institute of Canada's Fellow Chartered Insurance Professional (FCIP) and Chartered Insurance Professional (CIP) Programs. The CIP Society, through articles such as this, is working to bring ethical issues to the forefront and provide learning opportunities that enhance the professional ethics of all insurance professionals.

There is no getting around it: claims adjusters will encounter difficult and demanding claimants. But when a claimant grows unreasonable and combative, demanding too much, what is the best course of action for an adjuster wanting to advance a truly fair settlement and meet fiduciary duties to his or her employer?

A very busy claims department recently became busier as a result of a sudden increase in promotions, illnesses, family leaves and retirements. The remaining staff were doing the very best they could, but the workload and resulting stress was taking its toll. Many claimants were also expressing their dissatisfaction with service levels and were becoming increasingly demanding.

One particular claimant, sensing the mood of the situation, used the opportunity to apply extra pressure and demanded a higher payout on her claim. The claims adjuster felt that the claimant's requests were excessive and unreasonable, and advised her as such.

The argumentative claimant was (likely purposely) wasting the claims adjuster's time in an effort to wear her down. The claimant threatened to take the company to court and alert the media.

Although the claims adjuster knew that these were probably idle threats, she contemplated simply giving in to the unreasonable demands because they might cost less than the considerable time and resources being expended on the file. But what are the implications of doing this?

Mark MacDonald, B.Comm, FCIP, CRM

Vice President and Regional Claims Manager
Claims Department
Aon Risk Solutions

Any insurance professional can likely relate to this situation, as they have all, at some point, been involved in negotiations that have been difficult, tiring and may have eventually broken down; perhaps while trying to settle a claim, negotiate terms with an underwriter, or buy a home or a car.

In this situation, it can be assumed the claims adjuster's valuation of the claim is fair, and that the claimant likely knows this.

It can be very tempting in a situation like this to simply give in and "throw some money" at the claimant to make him or her go away. While this may be a quick and easy way out, there are several concerns with this approach.

A moral concern is that by doing this, the adjuster is giving the claimant "the win" by giving in to the claimant's threats, as opposed to negotiating a settlement in good faith based on the facts (with some of the normal give-and-take that is part of the negotiation process).

The adjuster should also take into consideration what sort of precedent she would be setting by giving in to the claimant's tactics. The next time she faces a difficult and unreasonable claimant, will she be more likely to concede to that individual's unreasonable demands?

The adjuster also needs to bear in mind her fiduciary duties to her employer. Her obligations in this regard include protecting her employer's assets and only issuing legitimate, and supported, claim payments.

As long as the adjuster's claim valuation is fact-based and reasonable, she should have no concerns about justifying or defending her offer.

The adjuster should explain to the claimant the rationale for her offer, and unless the claimant can justify a higher settlement based on the facts, the negotiations have likely reached a conclusion and the claimant should take whatever next steps she feels are necessary.

Luc Aucoin, BBA, FCIP

Adjuster

Plant Hope Adjusters Ltd.

It is unfortunate the insurer has allowed staffing to get to the point where claims personnel, who deal with enough stress in their day-to-day activities, have to deal with the added stress of unscrupulous claimants who seek to take advantage of the situation.

A cynical adjuster might say that the insurer has created the situation and so should pay what it has to in order to allow the adjuster to satisfy the claimant and get on with other matters, even if that means significantly overpaying the claim. A professional adjuster, however, would say that dealing with difficult people and situations is part of the job.

No matter the threats, the amount of the claim that should be paid is what should be paid, no more and no less. Every service provider experiences busy times and customers who are unreasonable in those situations are not worthy of the extra attention — and certainly not worthy of extra payment.

Caving in to the claimant's demands would create future expectations for that



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person (and all who would hear his or her story) and would undermine the confidence and credibility of the claims adjuster.

It is the insurer's responsibility to staff appropriately and if there are service complaints, then that will be for the insurer to answer.

The adjuster must maintain focus on the claims process, stick to the facts and not be influenced by extraneous influences. While it is easier said than done, professional loss adjusters can and do.

Lee-Ann Vansteenkiste, B.A. (Hons), CIP

Branch Manager

ClaimsPro

The insurer and adjuster must ensure that they are maintaining the integrity of the policy. Each line of business has legislative requirements for responding to claims. There are consequences in the legislation for late responses.

For example, if it is a property claim, an insurer has 60 days to respond to the properly submitted Proof of Loss. In an accident benefits claim in Ontario, an insurer must pay interest on late payments and/or concede coverage in situations where timelines are not met.

The first thing that the adjuster needs to do is ensure that the insurer has met all legislative requirements in dealing with the claimant. The requirements and transaction of the claim should be properly and professionally explained in writing.

An insurer can apologize for delays, but that does not mean they should give in to any demands that may exceed or counteract the intention of the policy and the principals of indemnity.

There are times in every claims adjuster's working life where he or she may not respond as quickly as liked. This is typically not intentional.

In this scenario, the adjuster should apologize for any delays or customer service handling, and keep the transactions factual to ensure compliance with the integrity of the policy.

The position of the insurer with respect to the resolution should be clearly outlined. Additionally, the communication must advise and direct the insured of the option to dispute should the claimant wish to decline the resolution offered by the insurer.

This explanation would detail the dispute process, including methods for appraisal, mediation, etc., along with any timelines that correspond with this.

Handling each claim consistently upholds the professionalism of both the insurer and the claims adjuster. It protects the policyholders in general, as the premiums of all pay the claims for those who submit them.

It is not always easy to apologize. Al-

though it may be easier just to “cave” and increase the resolution offer, it erodes the consistent, professional claims-handling practices of the insurer and, in the end, lessens the credibility of the adjuster.

The claims-handling practices should be consistent with every claim, ensure compliance with whatever legislation governs the line of business being addressed, and provide open, professional and factual communication with every insured person.

Claims professionals cannot be responsible for what an insured person does with a determination, but they can be responsible for how they respond to the situation. The very best that can be done is to maintain integrity and uphold the principal of indemnity.

THE LAST WORD

Whatever the issue or specifics, three different approaches can help guide how insurance professionals respond to various ethical scenarios they may encounter on the job. Depending on the approach, professionals can sometimes end up at different solutions, in which case practice and experience make all the difference in helping them select the best course of action.

Sometimes, however, all roads lead to the same outcome.

The first approach to solving ethical dilemmas involves an examination of the formal rules around the scenario (a rules-based approach).

In the aforementioned case, there are specific legislative requirements and organizational standards and guidelines that the claims adjuster should abide by to ensure a fair claims process for the claimant. In line with this approach, if the adjuster strays from these rules and gives the claimant more than what she deserves (no matter the reason), the adjuster would be acting unethically.

The second approach tries to maximize outcomes for individual stakeholders in the scenario (a people-based approach). While giving in to the claimant’s demands would certainly leave her more satisfied, this outcome would do nothing

to ensure fairness for the insurer (or future claimants). To balance outcomes for both the claimant and the insurer, the adjuster must negotiate a claim payout that is fair to both. (No one said it was an easy job!)

The third approach focuses on the end result of the scenario (a situation-based approach), and in this case, involves an investigation of the outcomes

of giving in to the claimant’s demands.

A higher payout to the claimant has the potential of undermining the claims process by suggesting that the payout amount is arbitrary and easily increased by making demands and/or threats.

The adjuster can help reiterate the integrity of the claims process and the insurance industry, in general, by following a fair claims process. ≡