

Title Code for Underwriting Agents: UK Personal Lines Claims & Complaints Handling – Update (July 2018)

Purpose To update the Code to reflect changes in relation of Lloyd's complaints handling requirements

Type Event

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Related links www.lloyds.com/complaintshandling

Lloyd's has made changes to the 'Code for Underwriting Agents: UK Personal Lines Claims & Complaints' (the "Code").

When will the revised Code take effect?

The revised Code will take effect from 1 August 2018. Until that time managing agents should continue to follow the Code as issued in June 2016.

Why are changes being made?

The Code is intended to provide a set of processes for complaints handling at Lloyd's that meet the expectations of the Financial Conduct Authority (FCA) and international regulators and which ensures that policyholders receive fair outcomes when complaints arise. In support of these objectives, the updated Code introduces a new 'compliance charge' that Lloyd's will be applying to managing agents that fail to meet performance metrics set by

Lloyd's. It also increases the threshold limit for when Lloyd's will mandate decisions at Stage 2.

While Lloyd's priority remains to work with managing agents to promote best practice through the sharing of knowledge and engaging collaboratively with managing agents to identify where practical improvements can be made, Lloyd's believes that these changes will support the improvement of standards for complaints handling at Lloyd's and will contribute to further improved outcomes for policyholders.

In addition, Lloyd's has taken the opportunity to make a number of minor changes to update the Code, including to reflect recent changes to UK data protection laws.

What changes have been made?

The attached version of the Code highlights the changes being made. A version of the Code, without the changes highlighted can be viewed at www.lloyds.com/complaintshandling. In summary, the changes are as follows:

1 Introduction to Code

The version of the Code that is being replaced included a statement that recognised that not all disagreements between policyholders and insurers will amount to complaints. It emphasised, however, that where there is an expression of dissatisfaction (and the FCA's definition of 'complaint' is otherwise met) then this should be treated as a complaint. To remove any potential for misinterpretation that Lloyd's considers there to be additional categories that apply, this paragraph been removed from the Introduction.

2 Assessment of managing agent compliance with the Code

This section has been updated with regard to the actions Lloyd's may require if a managing agent fails to comply with the Code to the standard expected by Lloyd's. In particular, this section now provides for the levy of a compliance charge of up to £25,000 for significant or repeated failures by managing agents to meet performance metrics set by Lloyd's.

The key performance metrics that managing agents will be judged against have been updated in consultation with the LMA Complaints Committee and will be provided to managing agents separately. These metrics will be reviewed and updated in consultation with the LMA Complaints Committee on an annual basis and updates will be published to managing agents.

The compliance charge applied in each case will be determined taking into account the metric missed, the severity and impact of the failure and the number of policyholders affected. Repeat failures may be publicised where no effort is made to avert non-compliance. The decision to impose this charge will be at the discretion of the

Performance Management Director, having regard to all the circumstances, and higher charges could be imposed in exceptional circumstances.

3 Data Protection

Following the introduction of the General Data Protection Regulation, the wording included in the Code to remind managing agents of their obligation to ensure compliance with all applicable data protection rules when sharing personal data with Lloyd's has been updated.

4 Lloyd's binding decisions – increase in limit

With effect from decisions made on or after 1 August 2018, the maximum monetary value of any complaint upheld at Stage 2 by Lloyd's that may be made binding on managing agents has been increased from £500 to £50,000. This includes the requirement to settle a claim as well as make a compensatory payment.

Increasing the limits Lloyd's applies when mandating decisions will lead to more efficient management of complaints and should reduce the number of cases being escalated to the Financial Ombudsman Service (FOS). Mandating decisions, however, is not intended to exclude managing agents from the investigation or decision making stages and Lloyd's will only use the mandate, as it does now, when it has reached an impasse.

The mandating process and the governance and controls to be followed by Lloyd's has been discussed and agreed with the LMA Complaints Committee and will be provided to managing agents separately.

5 EU ODR Platform

The link to the Guidance for Business produced by the UK Department for Business, Innovation & Skills has been removed as this is no longer valid.

Complaints Reporting

Managing agents are also asked to note that the contextualisation data regarding the number of policies in force as at the end of the reporting period will be expanded from UK and EEA policyholders to include the Rest of the World with effect for reporting as at 31 December 2018.

Further information

Copies of the Lloyd's documents referred to in this bulletin and full details of Lloyd's complaints handling arrangements can be found at www.lloyds.com/complaintshandling.

Managing agents can also contact the complaint handling helpline which has been established to answer managing agents' questions. The telephone number of the helpline is: 020 7327 5696.

Code For
Underwriting Agents:
UK Personal Lines
Claims & Complaints
Handling
July 2018

INTRODUCTION

Lloyd's seeks to ensure that policyholders are treated fairly and can have confidence that their valid claims will be met.

This Code sets out Lloyd's requirements for the handling of UK Personal Lines Claims and Complaints. It supplements all other relevant requirements, including Lloyd's Minimum Standards. The Code is intended to reflect and apply to the Lloyd's market the Financial Conduct Authority (FCA) rules and guidance for the handling of personal lines claims and complaints. In complying with the requirements set out in the Code managing agents should continue to have due regard to all other rules and guidance of the UK regulators. Where appropriate, references to the relevant corresponding paragraph in the FCA Handbook (primarily in ICOBS and DISP) have been included as footnotes for ease of reference.

All managing agents are required to ensure that their processes and procedures are compliant with this Code. Where managing agents have claims related questions arising from Part 1 of this Code they should direct them to their Lloyd's Claims account executive. Where managing agents have any questions regarding the handling of complaints (Part 2) these questions should be addressed to the Complaints team in the first instance (Helpline: 020 7327 5696; email: complaints@lloyds.com).

Where the Complaints team become involved with a complaint managing agents should respond promptly to queries raised by the team. Managing agents should also ensure the prompt provision of all files, papers, reports and other documentation which the team may require to investigate the complaint.

This Code is made pursuant to paragraph 31 of the Underwriting Byelaw.

Part 1: Claims Handling

The requirements set out in Part 1 deal with claims handling. They primarily reflect the rules and guidance set out in ICOBS 8.1. A number of these rules only apply to consumer policyholders. In many cases the FCA rules are of general application to all claims.

Note that the FCA Handbook ICOBS 8.2 & 8.4 includes additional rules that are relevant to motor and employers liability claims. These are not addressed in this Code and managing agents writing in these classes should refer to the applicable sections of the FCA Handbook.

Part 2: Complaints Handling

The requirements in this section apply to complaints under UK policies made by eligible complainants, as that term is defined in the FCA Handbook. In outline, an eligible complainant is anyone who may be eligible to have a complaint considered by the Financial Ombudsman Service (FOS). The exact scope of Part 2 is set out in more detail at the start of the section.

DISP 1.11.1R states:

The Society must establish and maintain appropriate and effective procedures for handling complaints by policyholders against members of the Society which comply with this chapter.

DISP 1.11.2R states:

A member of the Society must, in complying with this chapter, ensure that the arrangements which the member maintains are compatible with the Lloyd's complaint procedures, so that, taken as a whole, the requirements of this sourcebook are met.

For these purposes, the obligations of members to comply with DISP devolve to managing agents.

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DISP 1.11.3R states:

The Society must take reasonable steps to ensure that complaints by policyholders against members of the Society are dealt with under the Lloyd's complaint procedures and that members comply with the requirements of those procedures.

The FCA recognises that Lloyd's operates a two-tier complaints handling procedure as set out in this Code. In accordance with DISP 1.11.1R, it is this Code that establishes for the Lloyd's market the procedures for handling complaints by policyholders against members which comply with DISP 1. Members are only considered to have complied with DISP 1 by complying with Lloyd's complaints procedures (see DISP 1.11.9G). Managing agents should have written procedures in place for the handling of complaints which are compatible with those maintained by Lloyd's.

~~Not all disagreements between policyholders and insurers are complaints; misunderstandings can give rise to disagreements which are often resolved at an early stage. If, however, a policyholder expresses dissatisfaction with the outcome of any discussions (and the FCA's definition of a "complaint" is otherwise met) then this constitutes a complaint and the FCA's time limits as set out in DISP will apply from that point.~~

The requirements set out in Part 2 apply equally to policies written by coverholders under delegated authorities as they do to policies written by managing agents on an open market basis. Where a coverholder is involved the managing agent must ensure arrangements are in place to ensure compliance with the requirements of this Code. Managing agents should also note that UK coverholders are FCA authorised intermediaries and thus have their own obligations under DISP to handle complaints concerning their own actions.

Assessment of managing agent compliance with this Code

Lloyd's will from time to time set standards, KPIs and other measures of managing agent compliance with this Code. Where a managing agent fails to comply with this Code ~~or meet~~ to the standards expected by Lloyd's, Lloyd's will require the managing agent to improve its compliance and may, where appropriate, levy a compliance charge, bring require the managing agent to undertake remedial action or, in appropriate circumstances, Lloyd's may pursue enforcement action.

International Complaints

The procedures set out in this Code apply to complaints that arise from UK policies of insurance. Lloyd's operates separate arrangements for non-UK policyholder complaints.

While managing agents must comply with the local rules of any territory where a policy is written, the jurisdiction of the Financial Ombudsman Service is wide and covers firms for all activities carried on from an establishment maintained by it in the United Kingdom (see DISP 1.1.3 & DISP 2.6.1R). The Financial Ombudsman Service may therefore have jurisdiction over complaints made by eligible complainants in all territories where Lloyd's underwriters write business. However, the Financial Ombudsman Service has the discretion to dismiss complaints without a consideration of the merits where the complaint is or would be more suitable to be dealt with by a comparable independent complaints scheme or dispute resolution process (DISP 3.3.4(7) & (10)). This would include any equivalent overseas scheme in the jurisdiction where the complainant is based.

For further detail of Lloyd's arrangements for international complaints see: www.lloyds.com/complaintshandling.

EU ODR Platform

The European Commission has set up an online dispute resolution (ODR) platform to allow consumers who have a complaint about a product or service bought online to submit the complaint via the online platform. See Appendix 1 with regard to ensuring compliance with the relevant EU rules.

~~Data Protection Act~~ Compliance with Data Protection Laws

In the course of following the requirements set out in this Code it may be necessary for managing agents to share with Lloyd's information regarding the complaint that includes personal data for the purposes of applicable data

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protection laws (including the General Data Protection Regulation (EU) 2016/679 and the Data Protection Act 2018) ~~the Data Protection Act 1998~~. This can include information such as the policyholder's name and address, the policy number, details of the claim and correspondence with or relating to the policyholder. It is the responsibility of managing agents to ensure that they provide information to Lloyd's in a way that is compliant with ~~the Data Protection Act~~ data protection laws. ~~This may require that managing agents obtain the consent of the policyholder. It will usually be the case that a data protection statement will be included as part of the policy application process or in the policy documentation. Where this is the case, this may give the managing agent sufficient consent from the policyholder to share the relevant complaint related personal data with Lloyd's. Where managing agents intend to rely on a general data protection statement they must ensure that it is adequately drafted for this purpose.~~

1 CLAIMS HANDLING¹

1.1 The Claims Decision

- 1.1.1 Managing agents must ensure that claims are handled promptly and fairly.²
- 1.1.2 The FCA Handbook defines a ‘policyholder’ as anyone who for the time being is the legal holder of the policy, including any person to whom, under the policy, a sum is due, a periodic payment is payable or any other benefit is to be provided or to whom such a sum, payment or benefit is contingently due, payable or to be provided.³ A policyholder includes anyone who, upon the occurrence of the contingency insured against, is entitled to make a claim directly to the insurance undertaking.⁴
- 1.1.3 Managing agents must not unreasonably reject a claim (including by terminating or avoiding a policy).⁵
- 1.1.4 In respect of consumer policyholders⁶ with effect from 6 April 2013 the applicable law and insurer remedies in relation to pre-contract and pre-variation misrepresentation are as set out in the Consumer Insurance (Disclosure and Representations) Act 2012.⁷ For the purposes of ICOBS, if it is not clear in a particular case whether a customer is a consumer or commercial customer, managing agents must treat the customer as a consumer.⁸
- 1.1.5 In respect of consumer policyholders, rejections on the basis of breach of warranty or condition are unreasonable⁹ except where there is evidence of fraud or the circumstances of the claim are connected to the breach and unless (for pure protection contracts¹⁰):
- in a ‘life of another’ contract, the warranty relates to a statement of fact concerning the life to be insured and, if the statement had been made by the life assured under an ‘own life’ contract, the insurer could have rejected the claim; or
 - the warranty is material to the risk and was drawn to the customer’s attention before the conclusion of the contract.¹¹
- 1.1.6 The Financial Ombudsman Service may determine that an onerous or unusual term that is not clearly highlighted at the point of sale may not bind the policyholder.¹²

¹ Note that ICOBS 8.2 & 8.4 include additional rules that are relevant to motor and employers liability claims, which are not addressed in this section and to which managing agents should refer, where applicable.

² ICOBS 8.1.1R(1)

³ Glossary definition of “policyholder” & Article 3 Financial Services and Markets Act 2000 (Meaning of “Policy” and “Policyholder”) Order 2001 (SI 2001/2361)

⁴ ICOBS 2.1.1G(1)

⁵ ICOBS 8.1.1R(3)

⁶ “Consumer policyholder” is the term used in ICOBS. The Glossary definition of a “consumer” in the FCA Handbook is “any natural person acting for purposes outside his trade, business or profession”. See also ICOBS 2.1.1G(3). The definition of “consumer” in the Consumer Insurance (Disclosure and Representations) Act 2012 is similarly drafted (see also the definition of “consumer insurance contract”).

⁷ See also ICOBS 8.1.2R(1) & (2)

⁸ ICOBS 2.1.2R. Note also ICOBS 2.1.3G & 2.1.4G.

⁹ ICOBS 8.1.2R(3)

¹⁰ See the Glossary definition of “pure protection policy”, but in general terms it includes life insurance policies with no surrender value (or the premium consists of a single premium which the surrender value does not exceed).

¹¹ ICOBS 8.1.2R(3)(a) & (b)

¹² Eg Ombudsman News, Issue 23, December 2002 at p. 13 & Issue 40, September/October 2004 at p.5

1.2 The Claims Process

1.2.1 In order to facilitate the prompt handling and payment of valid claims managing agents' procedures must comply with all relevant laws and regulations. In the UK, this includes:

- the UK regulators' rules (in most cases ICOBS and COBS¹³ as well as the Principles for Business (PRIN));
- Lloyd's Minimum Standards for Claims and other applicable Lloyd's requirements;
- other practice statements which may apply to the class of business concerned including the ABI's Codes of Practice,¹⁴ Statements of Best Practice and Guidance Notes.

In territories outside the UK, additional laws and regulations may apply.

1.2.2 Managing agents should ensure that insurance documentation clearly identifies the initial point of contact and the steps to be taken in the event of a claim.

1.2.3 Managing agents must provide reasonable guidance to help a policyholder make a claim and provide appropriate information about its progress.¹⁵

1.2.4 Managing agents must take reasonable care to make and retain adequate records. It is for managing agents to decide what records they keep to meet their regulatory obligations. Managing agents should bear in mind the need to deal with requests for information from both customers and the regulators which may require evidence of matters such as what documentation has been provided to customers and how claims have been settled and why.¹⁶

1.2.5 Managing agents must settle claims promptly once settlement terms are agreed.¹⁷

¹³ COBS 17 which only applies to long term care insurance

¹⁴ ABI Code of Long Term Insurance Practice & ABI Code of Practice Managing Claims For Individual and Group Life, Critical Illness and Income Protection Insurance Products, January 2009. The ABI Code of General Insurance Practice ceased to be in force with the implementation of ICOB in January 2005.

¹⁵ ICOBS 8.1.1R(2) & COBS 17.1.1R(2)

¹⁶ ICOBS 2.4.1G & SYSC 3.2.20R

¹⁷ ICOBS 8.1.1R(4)

2 COMPLAINTS HANDLING

The requirements in this section apply to complaints from eligible complainants concerning activities of managing agents (or their appointed representatives) in respect of the underwriting of members and which relate to UK contracts of insurance.¹⁸ It sets out Lloyd's expectations of how such complaints will be dealt with by managing agents and by Lloyd's to comply with the FCA's DISP rules.¹⁹

The FCA Handbook definition of a "complaint" is "any oral or written expression of dissatisfaction, whether justified or not, from, or on behalf of, a person about the provision of, or failure to provide, a financial service, which (1) alleges that the complainant has suffered (or may suffer) financial loss, material distress or material inconvenience and (2) relates to an activity of that respondent, or of any other respondent with whom that respondent has some connection in marketing or providing financial services or products, which comes under the jurisdiction of the Financial Ombudsman Service."²⁰

An eligible complainant is "a person eligible to have a complaint considered under the Financial Ombudsman Service, as defined in DISP 2.7 (Is the complainant eligible?)"²¹

The requirements of this section apply equally to policies written by coverholders under delegated authorities as they do to policies written by managing agents on an open market basis.

All complaints may be made free of charge.²²

2.1 Advance disclosure of the complaints process

- 2.1.1 Lloyd's seeks to publish appropriate information of Lloyd's procedures for the reasonable and prompt handling of complaints against members of Lloyd's.²³ This information includes details of (1) how Lloyd's members fulfil their obligation to handle and seek to resolve relevant complaints and (2) that, if the complaint is not resolved, the complainant may be entitled to refer it to the Financial Ombudsman Service.²⁴ Eligible complainants are also provided with information about the Financial Ombudsman Service, including its website address.²⁵ The summary details are set out in a leaflet: "Your Complaint - How We Can Help"²⁶ and are available at www.lloyds.com/complaints. Lloyd's also produces a leaflet for use by managing agents: "How We Will Handle Your Complaint".
- 2.1.2 Managing agents must refer eligible complainants to the availability of these details in writing at or immediately after the point of sale of the policy.²⁷ The availability of these details may be referred to in contractual documentation, including policy documentation.²⁸ The LMA have produced two model complaints clauses for inclusion in policy documentation, LMA9123 and LMA9124. These include suitable wording for this purpose. The details must also be made available by managing agents in writing and free of charge to eligible complainants on request and when complaints are

¹⁸ DISP 1.1.3R(1). See also DISP 1.11 which relates to Lloyd's obligations & Glossary definition of "member". Lloyd's has implemented separate requirements in relation to complaints arising from non-UK contracts of insurance.

¹⁹ These rules are made to meet Lloyd's obligations pursuant to DISP 1.11.1R and in accordance with DISP 1.3.1R and DISP 1.3.2G

²⁰ Glossary definition of "complaint".

²¹ Glossary definition of "eligible complainant". Managing agents should refer to DISP 2.7 for further details of complainants who fall within the jurisdiction of the Financial Ombudsman Service.

²² DISP 1.3.1AR

²³ DISP 1.2.1R(1)

²⁴ DISP 1.2.3G

²⁵ DISP 1.2.1R(4)

²⁶ DISP 1.2.4G

²⁷ DISP 1.2.1R(2)(b)

²⁸ DISP 1.2.4G

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acknowledged.²⁹ Lloyd's will make the details available on request and when acknowledging a complaint.³⁰

- 2.1.3 Managing agents whose business may result in complaints from eligible complainants must provide information, in a clear, comprehensible and easily accessible way about the Lloyd's Complaints team and the Financial Ombudsman Service, including their website addresses, on its website and in the contractual documentation with the policyholder. LMA9123 and LMA9124 include suitable wording for inclusion in contractual documentation. Where there is a coverholder, the information should also be provided on the coverholder's website, where one exists.³¹

2.2 Complaints procedures

- 2.2.1 Managing Agents must establish, implement and maintain effective and transparent procedures for the reasonable and prompt handling of complaints.³² Procedures must allow complaints to be made by any reasonable means, including orally.³³ The procedures should recognise complaints as requiring resolution.³⁴ Where managing agents operate a telephone line for the purpose of enabling an eligible complainant to submit a complaint, the complainant must not be bound to pay more than the basic rate when contacting the managing agent by telephone.³⁵
- 2.2.2 Managing agents must ensure they have in place appropriate management controls and take reasonable steps to ensure that in handling complaints they identify and remedy any recurring or systemic problems.³⁶
- 2.2.3 Managing agents must keep a record of each complaint received and the measures taken for its resolution and retain that record for three years from the date the complaint was received.³⁷ A record of each complaint received will also be kept by Lloyd's. Lloyd's will keep a record of the measures taken for the resolution of each complaint in relation to those parts of the process in which Lloyd's is involved.

2.3 Complaint acknowledgement and forwarding

- 2.3.1 On receipt of a complaint, a managing agent must send the complainant a prompt written acknowledgement providing early reassurance that it has received a complaint and is dealing with it.³⁸ When acknowledging the complaint in respect of an eligible complainant, the managing agent must provide free of charge appropriate written information regarding Lloyd's internal processes for the reasonable and prompt handling of complaints.³⁹ This should be done by providing to the complainant one of the leaflets produced by Lloyd's referred to in paragraph 2.1.1. Thereafter, the managing agent

²⁹ DISP 1.2.1R(3)

³⁰ DISP 1.2.1R(3)

³¹ DISP 1.2.1R(4). See also DISP 1.11.2AR.

³² DISP 1.3.1R & 1.3.2G. See also DISP 1.3.2AG

³³ DISP 1.3.2G(1) & Glossary definition of "complaint".

³⁴ DISP 1.3.2G(2)

³⁵ DISP 1.3.1AA. The basic rate is the simple cost of the connection and must not provide the managing agent with a contribution to its costs or revenues. Note that the same rule applies where a coverholder or TPA provides the telephone line. See DISP 1.3.1ACR and DISP 1.3.1ADR for telephone numbers that may and may not be used.

³⁶ DISP 1.3.3R. Managing agents should refer to the rule for examples of actions that may be required. See DISP 1.3.3BG for examples of the processes managing agents should have in place to comply with DISP 1.3.3R. See also DISP 1.3.6G as to the need to consider whether the managing agent ought to act on its own initiative with regard to the position of customers who may have suffered detriment but who have not complained.

³⁷ DISP 1.9.1R

³⁸ DISP 1.6.1R(1). Where appropriate, acknowledgements may be sent by a managing agent's coverholder or TPA.

³⁹ DISP 1.2.1R(3)(b)

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must ensure that the complainant is kept informed of the progress of the measures being taken for the complaint's resolution.⁴⁰

- 2.3.2 Where a complaint relating to an insurance contract is made by a complainant directly to Lloyd's, Lloyd's will provide the written acknowledgement and reassurance that the complaint is being dealt with before referring the complaint to the relevant managing agent. Lloyd's will pass to the managing agent of the syndicate in respect of which the complaint is made all details relating to the complaint received by Lloyd's for the managing agent to investigate and assess. If there is more than one syndicate on the policy, Lloyd's will pass the complaint to the managing agent of the lead Lloyd's syndicate.
- 2.3.3 If the managing agent or Lloyd's receives a complaint that has been forwarded to it under the DISP complaints forwarding rules (DISP 1.7) the complaint will be treated for DISP purposes as if the complaint was made directly to the managing agent or Lloyd's.⁴¹ The complaint will be treated as received when the forwarded complaint is received and the standard time limits will be applied from that date.⁴²
- 2.3.4 Details of all complaints received by a managing agent (including their coverholders or TPAs) must be notified to Lloyd's in such form and within such times as Lloyd's may prescribe.
- 2.3.5 A managing agent that has reasonable grounds to be satisfied that another respondent⁴³ may be solely or jointly responsible for the matter alleged in a complaint may inform Lloyd's. The assessment by the managing agent must be done fairly, consistently and promptly.⁴⁴ In notifying Lloyd's, the managing agent should provide details of why the complaint should be forwarded as well as the other respondent's contact details (if known). Lloyd's will forward the complaint promptly, or the relevant part of it, in writing to that other respondent.⁴⁵ Lloyd's will also inform the complainant promptly in a final response⁴⁶ why the complaint has been forwarded to the other respondent and Lloyd's will provide the other respondent's contact details.⁴⁷ Where the managing agent is jointly responsible for the fault alleged in the complaint, it must comply with its own obligations under DISP 1 in respect of that part of the complaint it has not forwarded.⁴⁸ Lloyd's may agree with the managing agent in appropriate circumstances that the managing agent will forward the complaint in accordance with this paragraph.
- 2.3.6 The requirements in respect of complaints acknowledgement and forwarding set out in paragraphs 2.3.1, 2.3.3 and 2.3.5 above do not apply if the complaint is resolved by the managing agent or Lloyd's by close of business on the third business day following the day on which it is received.⁴⁹ For these purposes, a complaint is resolved where the complainant has indicated acceptance of a response from the managing agent or Lloyd's. There is no requirement for the response or acceptance to be in writing.⁵⁰

2.4 Complaints that are time barred

- 2.4.1 If a managing agent receives a complaint which is outside the time limits for referral to the Financial Ombudsman Service (see DISP 2.8) it may reject the complaint without considering the merits. The managing agent should inform Lloyd's and Lloyd's will explain this to the complainant in a final response.⁵¹

⁴⁰ DISP 1.6.1R(2)

⁴¹ DISP 1.7.2R

⁴² DISP 1.7.2R & DISP 1.7.3G

⁴³ See the Glossary definition of "respondent".

⁴⁴ DISP 1.4.1R(2)(d)

⁴⁵ DISP 1.7.1R

⁴⁶ See definition in DISP 1.6.2R(1) & Glossary definition of "final response"

⁴⁷ DISP 1.7.1R(2)

⁴⁸ DISP 1.7.1R(3)

⁴⁹ DISP 1.5.1R

⁵⁰ DISP 1.5.2AR

⁵¹ DISP 1.8.1R. See also paragraph 2.5.10.

2.5 Resolving Complaints

- 2.5.1 Once a complaint has been received by a managing agent, it must investigate the complaint competently, diligently and impartially obtaining additional information as necessary. The managing agent must assess fairly, consistently and promptly the subject matter of the complaint, whether the complaint should be upheld and what remedial action or redress (or both) may be appropriate.⁵²
- 2.5.2 Taking into account all relevant factors, the managing agent must offer redress or remedial action when it decides this is appropriate. In all cases, the managing agent must explain to the complainant promptly and, in a way that is fair, clear and not misleading, its assessment of the complaint, its decision on it, and any offer of remedial action or redress. The managing agent must comply promptly with any offer of remedial action or redress accepted by the complainant.⁵³
- 2.5.3 When assessing the complaint, factors that may be relevant include: (1) all the evidence available and the particular circumstances of the complaint, (2) similarities with other complaints received by the managing agent, (3) relevant guidance published by the FCA, other relevant regulators, the Financial Ombudsman Service (or its predecessors) and (4) appropriate analysis of decisions by the Financial Ombudsman Service concerning similar complaints received by the managing agent.⁵⁴

Complaints resolved by the close of the third business day

- 2.5.3A Where a managing agent considers a complaint to be resolved by close of business on the third business day following the day on which it is received, the managing agent must promptly send the complainant a 'summary resolution communication' which complies with DISP 1.5.4R. The summary resolution communication should, additionally, tell the complainant that if he subsequently decides that he is dissatisfied with the resolution of the complaint he may be able to refer the complaint to Lloyd's, and the summary resolution communication should provide details of how to do so. A complaint is resolved for the purposes of this paragraph where the complainant has indicated acceptance of a response from the managing agent or from Lloyd's, with neither the response nor acceptance having to be in writing.⁵⁵ Lloyd's has prepared model wording to be included by managing agents in all 'summary resolution communications' to ensure compliance with this paragraph (see Appendix 2).

Stage One

- 2.5.4 Other than where a complaint has been resolved in accordance with paragraph 2.5.3A, within two weeks of receipt of the complaint managing agents must provide to the complainant a written response which offers redress or remedial action (whether or not the managing agent (on behalf of members) accepts the complaint) or rejects the complaint and gives reasons for doing so. The response must further (1) inform the complainant that he can pursue his/her complaint by contacting the Complaints team at Lloyd's if he remains dissatisfied and (2) refer⁵⁶ to the ultimate availability of the Financial Ombudsman Service if he remains dissatisfied with the managing agent's and Lloyd's response.⁵⁷ Note

⁵² DISP 1.4.1R(1) & (2). This and the following requirements do not apply to time-barred complaints. See DISP 1.8.1R and paragraph 2.4.1.

⁵³ DISP 1.4.1R(3), (4) & (5)

⁵⁴ DISP 1.4.2G. See DISP 1.3.2AG in relation to paragraph 2.5.3(4).

⁵⁵ DISP 1.5

⁵⁶ DISP 1.6.6AG provides that this must be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of the response.

⁵⁷ DISP 1.6.5R(1) and see DISP 1.6.6R (pre-1 July 2012) with regard to the application of time limits. With effect from 1 July 2012 DISP 1.6.5R and DISP 1.6.6R were deleted from DISP. The FCA has confirmed to Lloyd's that this change is not intended to require a change to Lloyd's complaints process as set out in this code. The references to the unamended rules have therefore been retained in this document and managing agents should follow the process set out here.

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that this response must not be described as a “final response”. A copy of the response must be provided to Lloyd’s.

- 2.5.5 If, within the two weeks, the managing agent cannot provide a written response as set out in paragraph 2.5.4 it must send to the complainant within that time a written response which explains why the managing agent is not in a position to provide a written response as referred to in paragraph 2.5.4 and which indicates when the managing agent expects to be able to provide such a response, which should be no later than four weeks from receipt of the complaint. In such a case the managing agent must include in the written response the information referred to in paragraph 2.5.4 (1) & (2). A copy of the response and such other information about the complaint as Lloyd’s may prescribe must be provided to Lloyd’s.
- 2.5.6 In the event that the managing agent fails to provide any written response within two weeks, Lloyd’s may initiate a Stage Two review in accordance with paragraph 2.5.7. Lloyd’s may also initiate a Stage Two review if no response in accordance with paragraph 2.5.4 is provided within four weeks of receipt of the complaint.

Stage Two

- 2.5.7 If, (1) after a complaint has been resolved in accordance with paragraph 2.5.3A; or (2) at the end of two weeks or after the complainant has received a written response in accordance with paragraph 2.5.4 (whichever is earlier), the complainant indicates to Lloyd’s that he remains dissatisfied, Lloyd’s will investigate and assess the complaint having regard to DISP and in particular DISP 1.4 (Complaints resolution rules).⁵⁸
- 2.5.7A Where Lloyd’s assesses that the complaint should be upheld and that remedial action and/or redress should be offered which has (1) a value to the complainant of ~~£500~~£50,000 or less and/or (2) a non-monetary value to the complainant then the decision of Lloyd’s shall be binding. In all other cases, Lloyd’s will only uphold a complaint and/or offer redress and/or remedial action with the agreement of the managing agent.
- 2.5.8 (Subject to paragraph 2.5.11) by the end of eight weeks after first receipt of the complaint, Lloyd’s will in all cases where paragraph 2.5.7 applies send the complainant either a final response⁵⁹ or a written response which (1) explains why Lloyd’s is not in a position to make a final response and indicates when it expects to be able to provide one; (2) informs the complainant⁶⁰ that he may now refer the complaint to the Financial Ombudsman Service; (3) encloses a copy of the Financial Ombudsman Service standard explanatory leaflet; and (4) provides the website address of the Financial Ombudsman Service.⁶¹ Lloyd’s will indicate in the response whether or not consent is given to waive the relevant time limits for referring the complaint to the Financial Ombudsman Service after consulting with the relevant managing agent.⁶²
- 2.5.9 Where Lloyd’s sends a final response it will be a written response which either (1) states that Lloyd’s (on behalf of members) accepts the complaint and, where appropriate, Lloyd’s (on behalf of members) will offer redress or remedial action which in its view is appropriate⁶³, (2) states that the managing agent (on behalf of members) offers redress or remedial action without accepting the complaint, and (3) states that Lloyd’s rejects the complaint and will give the reasons for doing so.⁶⁴

⁵⁸ Note that for complaints resolved in accordance with paragraph 2.5.3A, the complainant may elect to refer the complaint to the Financial Ombudsman Service, in which case Lloyd’s will not follow the Stage Two process.

⁵⁹ See definition in DISP 1.6.2R(1) & Glossary definition of “final response”

⁶⁰ DISP 1.6.6AG provides that this must be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of the response.

⁶¹ DISP 1.6.2R(2)

⁶² DISP 1.6.2R(2)(ba)

⁶³ Where a managing agent during Stage Two makes clear to Lloyd’s that it will accept the complaint, on behalf of members, and, where appropriate, will offer redress or remedial action, this will be reflected in the final response.

⁶⁴ See definition in DISP 1.6.2R(1) & Glossary definition of “final response”.

HIGHLIGHTED VERSION

- 2.5.10 All final responses sent by Lloyd's will (1) enclose a copy of the Financial Ombudsman Service's standard explanatory leaflet; (2) provide the website address of the Financial Ombudsman Service, and (3) inform the complainant⁶⁵ that if he remains dissatisfied with the response, he may now refer his complaint to the Financial Ombudsman Service. Lloyd's will indicate in the final response whether or not consent is given to waive the relevant time limits for referring the complaint to the Financial Ombudsman Service after consulting with the relevant managing agent.⁶⁶
- 2.5.11 For the purposes of calculating the eight weeks referred to in paragraph 2.5.8, if the complainant takes more than a week to reply to a written response of the kind described in paragraph 2.5.4, the additional time in excess of a week will not be counted by Lloyd's for the purposes of the time limits.⁶⁷
- 2.5.12 Lloyd's is not required to take the steps set out in paragraph 2.5.8 if the complainant has already indicated in writing acceptance of a response by the managing agent or Lloyd's, provided that any response sent by the managing agent (1) informed the complainant how to pursue his complaint with Lloyd's if he remains dissatisfied, (2) referred to the ultimate availability of the Financial Ombudsman Service if he remains dissatisfied with Lloyd's and the managing agent's response, (3) enclosed a copy of the Financial Ombudsman Service standard explanatory leaflet, (4) provided the website address of the Financial Ombudsman Service, and (5) indicates whether or not the managing agent consents to waive the relevant time limits in DISP 2.8.2R.⁶⁸

2.6 Complaints referred to the Financial Ombudsman Service

- 2.6.1 Managing agents and Lloyd's will aim to resolve complaints at the earliest possible opportunity, minimising the number of unresolved complaints which need to be referred to the Financial Ombudsman Service.⁶⁹
- 2.6.2 Where a complaint against a member is referred to the Financial Ombudsman Service, the managing agent and Lloyd's will cooperate fully with the Financial Ombudsman Service and managing agents will comply promptly with any settlements or awards made by it.⁷⁰
- 2.6.3 Managing agents should make sure their procedures ensure that lessons learned as a result of determinations by the Financial Ombudsman Service are effectively applied in future complaints handling.⁷¹

⁶⁵ DISP 1.6.6AG provides that this must be set out clearly, comprehensibly, in an easily accessible way and prominently within the text of the response.

⁶⁶ DISP 1.6.2R(1)(f). The wording to be used is set out at DISP 1 Annex 3R.

⁶⁷ DISP 1.6.6R (pre-1 July 2012) (see notes to paragraph 2.5.4). Note that a letter sent in accordance with paragraph 2.5.5 does not have the effect of stopping time running in accordance with this paragraph.

⁶⁸ DISP 1.6.4R. The wording to be used is set out at DISP 1 Annex 3R.

⁶⁹ DISP 1.4.3G

⁷⁰ DISP 1.4.4R

⁷¹ DISP 1.3.2AG

Appendix 1

EU ODR Platform

The European online dispute resolution (ODR) platform, established by the European Commission, allows consumers who have a complaint about a product or service bought online to submit the complaint via the online platform. The platform, called the 'ODR platform', allows consumers to submit complaints to a trader based in that or another EU member state. The ODR platform is intended to be additional to existing ADR arrangements provided by traders in the EU.

~~Full details of the ODR platform and the related rules introduced by the EU in relation to ODR and ADR can be found in [Guidance for Business produced by the UK Department for Business, Innovation & Skills](#).~~

Lloyd's already has in place detailed arrangements for complaints handling and, where complainants remain dissatisfied, they are able to refer their complaint to the appropriate complaints ombudsman in the relevant EU territory. In the UK that is the Financial Ombudsman Service.

In addition, to ensure compliance with the ODR regulations, managing agents must also provide consumers with the following information for all policies sold in the EU (including the UK):

- 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.
- 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 any local complaints ombudsman/regulator.
- 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 any local complaints ombudsman.

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

The requirements to provide the information apply to all managing agents and coverholders where insurance policies are sold online. The definition of online selling is a wide one.

It is the responsibility of managing agents to ensure compliance with these rules.

Appendix 2

Model 'Summary Resolution Communication'

The following wording should be included within all Summary Resolution Communications:

"While we consider this matter to be resolved, in the unlikely event that you remain dissatisfied I am obliged to inform you that as your insurance is provided by Underwriters at Lloyd's you are entitled to refer the matter to the Complaints team at Lloyd's. Full details of Lloyd's complaints procedures are available at www.lloyds.com/complaints and the Complaints team's contact details are as follows:

Lloyd's
Fidentia House
Walter Burke Way
Chatham Maritime
Chatham
Kent ME4 4RN

Tel: 0207 327 5693
Fax: 0207 327 5225
Email: complaints@lloyds.com

Alternatively, you may now have the right to refer your complaint to the Financial Ombudsman Service (FOS), free of charge – but you must do so within six months of the date of this communication. If you do not refer your complaint in time, the FOS will not have permission to consider your complaint and so will only be able to do so in very limited circumstances (for example, if the FOS believes that the delay was as a result of exceptional circumstances). Further details regarding the FOS can be obtained from their website at www.financial-ombudsman.org.uk. Alternatively the FOS may be contacted at:

The Financial Ombudsman Service
Exchange Tower
London E14 9SR

Tel: 0800 023 4 567

Should you refer the matter to Lloyd's this will not affect your right to refer the matter to the Financial Ombudsman Service following Lloyd's review."