

# MARKET BULLETIN

REF: Y4924

<b>Title</b>	Code for Underwriting Agents: UK Personal Lines Claims & Complaints Handling – Charges for Telephone Calls - Update
<b>Purpose</b>	To update the Code to reflect amendments to the FCA Handbook in respect of charging for telephone calls
<b>Type</b>	Event
<b>From</b>	Jonathan May Head of Financial Control & Market Services
<b>Date</b>	18 September 2015
<b>Deadline</b>	26 October 2015
<b>Related links</b>	<a href="http://www.lloyds.com/complaintshandling">www.lloyds.com/complaintshandling</a>

Following further amendments made by the FCA to its Handbook, managing agents should note that:

- Lloyd's has updated its Code for complaints handling to prohibit managing agents from charging eligible complainants who contact them by telephone more than the basic rate for the telephone call.
- During 2016 Lloyd's will be further revising the Code to reflect the FCA's new approach to complaints that are resolved by close of the third business day. These further changes take effect from 30 June 2016.
- The FCA is introducing changes to the complaint reporting requirements.

## Changes to FCA Complaints Handling Rules (DISP)

In December 2014 the FCA issued a consultation document '[Improving Complaints Handling](#)' (CP 14/30). Following that consultation exercise, in April, the FCA issued new rules implementing the ADR Directive. To give effect to those changes at Lloyd's, Lloyd's issued [Market Bulletin Y4905](#), amending its 'Code for Underwriting Agents: UK Personal Lines Claims & Complaints Handling' (the 'Code').

The FCA has now issued a policy statement '[Improving Complaints Handling, Feedback on CP14/30 and Final Rules](#)' (PS15/19) dated July 2015 and its [Quarterly Consultation Paper](#)

[No.10](#) (CP15/28). These set out further rule changes arising from the FCA's consultation exercise. These latest changes:

- With effect from 26 October 2015, limit the cost of calls consumers make to firms to a 'basic rate'. This new rule is of general application to firms in relation to their dealings with consumers but there are specific changes made that apply to complaints handling; and
- With effect from 30 June 2016, extend the 'next business day rule' that currently applies in complaints handling, which permits firms to handle complaints less formally where they are resolved by the next business day. From 30 June 2016 the 'next business day rule' is being extended to the close of three business days after the day of receipt. While firms will still not have to provide final response letters when the complaint is resolved in this time, they will now have to promptly send the complainant a 'summary resolution communication'.

### **Amendments to the UK Complaints Code**

As a first step, the Code has been updated to reflect the FCA changes in relation to call charges. The updated Code is attached, highlighting the changes made. As with the amendments to DISP, these changes take effect from 26 October 2015.

Lloyd's is currently in discussion with the FCA with regard to the implementation of the remaining FCA changes that take effect from 30 June 2016 and Lloyd's will issue a further updated version of the Code during 2016. In the meantime, managing agents should familiarise themselves with these FCA rule changes.

### **Changes to UK complaints reporting requirements**

In addition to the changes discussed above, the FCA is making changes to the complaints reporting requirements. While the period to resolve complaints informally is being extended, firms will now be required to report all complaints, including those resolved within the three day period. Previously, complaints resolved informally were not reportable.

Further details of the FCA's expectations for reporting are awaited and Lloyd's Complaints Team will contact managing agents to communicate details of the updated returns.

### **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 on Lloyds.com at [www.lloyds.com/complaintshandling](http://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**

**OCTOBER 2015**

## 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](mailto: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.

### 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.

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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.

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.

In view of this, policy wordings need to make a clear distinction between the initial stage where there may be discussion or negotiation with a policyholder over a proposed settlement or course of action and the stage at which a policyholder expresses dissatisfaction. Appendix 1 sets out suggested suitable wording. In this, it is important that managing agents apply the FCA Handbook definition of "complaint" (which is set out in Part 2) and they have regard to any guidance issued by the FCA or the Financial Ombudsman Service.

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.

**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

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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](http://www.lloyds.com/complaintshandling).

**Data Protection Act**

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 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. 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 HANDLING<sup>1</sup>

## 1.1 The Claims Decision

- 1.1.1 Managing agents must ensure that claims are handled promptly and fairly.<sup>2</sup>
- 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.<sup>3</sup> A policyholder includes anyone who, upon the occurrence of the contingency insured against, is entitled to make a claim directly to the insurance undertaking.<sup>4</sup>
- 1.1.3 Managing agents must not unreasonably reject a claim (including by terminating or avoiding a policy).<sup>5</sup>
- 1.1.4 In respect of consumer policyholders<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>
- 1.1.5 In respect of consumer policyholders, rejections on the basis of breach of warranty or condition are unreasonable<sup>9</sup> except where there is evidence of fraud or the circumstances of the claim are connected to the breach and unless (for pure protection contracts<sup>10</sup>):
- 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.<sup>11</sup>

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<sup>1</sup> 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.

<sup>2</sup> ICOBS 8.1.1R(1)

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

<sup>4</sup> ICOBS 2.1.1G(1)

<sup>5</sup> ICOBS 8.1.1R(3)

<sup>6</sup> “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”).

<sup>7</sup> See also ICOBS 8.1.2R(1) & (2)

<sup>8</sup> ICOBS 2.1.2R. Note also ICOBS 2.1.3G & 2.1.4G.

<sup>9</sup> ICOBS 8.1.2R(3)

<sup>10</sup> 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).

<sup>11</sup> ICOBS 8.1.2R(3)(a) & (b)

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- 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.<sup>12</sup>

## 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 COBS<sup>13</sup> 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,<sup>14</sup> 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.<sup>15</sup>
- 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.<sup>16</sup>
- 1.2.5 Managing agents must settle claims promptly once settlement terms are agreed.<sup>17</sup>

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

<sup>13</sup> COBS 17 which only applies to long term care insurance

<sup>14</sup> 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.

<sup>15</sup> ICOBS 8.1.1R(2) & COBS 17.1.1R(2)

<sup>16</sup> ICOBS 2.4.1G & SYSC 3.2.20R

<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

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."<sup>20</sup>

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?)"<sup>21</sup>

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.<sup>22</sup>

### 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.<sup>23</sup> 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.<sup>24</sup> Eligible complainants are also provided with information about the Financial Ombudsman Service, including its website address.<sup>25</sup> The summary details are set out in a leaflet: "Your Complaint - How We Can Help"<sup>26</sup> and are available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints). Lloyd's also produces a leaflet for use by managing agents: "How We Will Handle Your Complaint".

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<sup>18</sup> 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.

<sup>19</sup> 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

<sup>20</sup> Glossary definition of "complaint".

<sup>21</sup> 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.

<sup>22</sup> DISP 1.3.1AR

<sup>23</sup> DISP 1.2.1R(1)

<sup>24</sup> DISP 1.2.3G

<sup>25</sup> DISP 1.2.1R(4)

<sup>26</sup> DISP 1.2.4G

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- 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.<sup>27</sup> The availability of these details may be referred to in contractual documentation, including policy documentation.<sup>28</sup> Appendix 1 sets out suggested suitable wording. 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 acknowledged.<sup>29</sup> Lloyd's will make the details available on request and when acknowledging a complaint.<sup>30</sup>
- 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. Appendix 1 includes 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.<sup>31</sup>

## 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.<sup>32</sup> Procedures must allow complaints to be made by any reasonable means, including orally.<sup>33</sup> The procedures should recognise complaints as requiring resolution.<sup>34</sup> 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.<sup>35</sup>
- 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.<sup>36</sup>
- 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.<sup>37</sup> 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.

<sup>27</sup> DISP 1.2.1R(2)(b)

<sup>28</sup> DISP 1.2.4G

<sup>29</sup> DISP 1.2.1R(3)

<sup>30</sup> DISP 1.2.1R(3)

<sup>31</sup> DISP 1.2.1R(4). See also DISP 1.11.2AR.

<sup>32</sup> DISP 1.3.1R & 1.3.2G. See also DISP 1.3.2AG

<sup>33</sup> DISP 1.3.2G(1) & Glossary definition of "complaint".

<sup>34</sup> DISP 1.3.2G(2)

<sup>35</sup> 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.

<sup>36</sup> 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.

<sup>37</sup> DISP 1.9.1R

## 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.<sup>38</sup> 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.<sup>39</sup> 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 must ensure that the complainant is kept informed of the progress of the measures being taken for the complaint's resolution.<sup>40</sup>
- 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.<sup>41</sup> The complaint will be treated as received when the forwarded complaint is received and the standard time limits will be applied from that date.<sup>42</sup>
- 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 respondent<sup>43</sup> 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.<sup>44</sup> 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.<sup>45</sup> Lloyd's will also inform the complainant promptly in a final response<sup>46</sup> why the complaint has been forwarded to the other respondent and Lloyd's will provide the other respondent's contact details.<sup>47</sup> 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

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

<sup>39</sup> DISP 1.2.1R(3)(b)

<sup>40</sup> DISP 1.6.1R(2)

<sup>41</sup> DISP 1.7.2R

<sup>42</sup> DISP 1.7.2R & DISP 1.7.3G

<sup>43</sup> See the Glossary definition of "respondent".

<sup>44</sup> DISP 1.4.1R(2)(d)

<sup>45</sup> DISP 1.7.1R

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

<sup>47</sup> DISP 1.7.1R(2)

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has not forwarded.<sup>48</sup> 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 (and notifying Lloyd's) set out in paragraphs 2.3.1 to 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 business day following its receipt.<sup>49</sup> 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.<sup>50</sup>

## 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.<sup>51</sup>

## 2.5 Resolving Complaints

### Stage One

- 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.<sup>52</sup>
- 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.<sup>53</sup>
- 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.<sup>54</sup>

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<sup>48</sup> DISP 1.7.1R(3)

<sup>49</sup> DISP 1.5.1R(2). For complaints received on days other than a business day or after close of business on a business day, see DISP 1.5.3G(1).

<sup>50</sup> DISP 1.5.3G(2).

<sup>51</sup> DISP 1.8.1R. See also paragraph 2.5.10.

<sup>52</sup> 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.

<sup>53</sup> DISP 1.4.1R(3), (4) & (5)

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

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- 2.5.4 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) refer<sup>55</sup> to the ultimate availability of the Financial Ombudsman Service if he remains dissatisfied with the managing agent's and Lloyd's response.<sup>56</sup> Note 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, 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).
- 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 response<sup>57</sup> 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 complainant<sup>58</sup> 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.<sup>59</sup> Lloyd's will indicate in the response

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<sup>55</sup> 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.

<sup>56</sup> 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.

<sup>57</sup> See definition in DISP 1.6.2R(1) & Glossary definition of "final response"

<sup>58</sup> 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.

<sup>59</sup> DISP 1.6.2R(2)

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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.<sup>60</sup>

- 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 appropriate<sup>61</sup>, (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.<sup>62</sup>
- 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 complainant<sup>63</sup> 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.<sup>64</sup>
- 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.<sup>65</sup>
- 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.<sup>66</sup>
- 2.5.13 There is no requirement to comply with the steps referred to in paragraph 2.5.4 – 2.5.10 where the complaint is resolved by close of business on the business day following receipt by Lloyd's or the managing agent.<sup>67</sup>

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<sup>60</sup> DISP 1.6.2R(2)(ba)

<sup>61</sup> 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.

<sup>62</sup> See definition in DISP 1.6.2R(1) & Glossary definition of "final response".

<sup>63</sup> 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.

<sup>64</sup> DISP 1.6.2R(1)(f). The wording to be used is set out at DISP 1 Annex 3R.

<sup>65</sup> 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.

<sup>66</sup> DISP 1.6.4R. The wording to be used is set out at DISP 1 Annex 3R.

<sup>67</sup> DISP 1.5.1R(1). For complaints received on days other than a business day or after close of business on a business day, see DISP 1.5.3G(1).

## 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.<sup>68</sup>
- 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.<sup>69</sup>
- 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.<sup>70</sup>

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<sup>68</sup> DISP 1.4.3G

<sup>69</sup> DISP 1.4.4R

<sup>70</sup> DISP 1.3.2AG

## APPENDIX 1

### Suggested wordings

Lloyd's recommend using the standard wordings set out below as part of the policy documentation.

DISP provides that firms must publish appropriate information regarding their internal procedures for complaints handling, which may be contained in a leaflet and its availability may be referred to in contractual documents. Lloyd's has produced the leaflet "*Your Complaint - How We Can Help*" for this purpose. The policy documentation must also provide information in a clear, comprehensible, and easily accessible way about the Financial Ombudsman Service, including the Financial Ombudsman Service's website address.

Managing agents should refer to the introductory section with regard to the approach to be followed for Non-UK Complaints. In all cases, for international business, managing agents must comply with the local legal and regulatory requirements for complaints handling.

Note that managing agents must ensure they comply with Part 2, paragraph 2.1 of this Code. Managing agents should also refer to the applicable DISP rules.

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. Furthermore, coverholders are obliged, under both DISP and ICOBS, to advise policyholders of these arrangements. It is therefore advisable for agents to liaise with coverholders and other intermediaries in order to ensure that wordings are consistent.

### **Suggested wording for the managing agents' procedures for the resolution of disagreements**

*"If you have any questions or concerns about your policy or the handling of a claim you should, in the first instance, contact [insert name and contact details of managing agent/coverholder or as applicable]."*

### **Suggested wording for the complaints procedures:**

#### **Personal lines policies**

*"In the event that you remain dissatisfied and wish to make a complaint, you can do so at any time by referring the matter to [either insert name and contact details of managing agent/coverholder/as applicable or the Complaints team at Lloyd's]."*

*The address of the Complaints team at Lloyd's is:*

*Complaints  
Lloyd's  
One Lime Street  
London EC3M 7HA*

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Tel No: 020 7327 5693  
Fax No: 020 7327 5225  
E-mail: [complaints@lloyds.com](mailto:complaints@lloyds.com)  
Website: [www.lloyds.com/complaints](http://www.lloyds.com/complaints)

*Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint - How We Can Help" available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints) and are also available from the above address. If you remain dissatisfied after Lloyd's has considered your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service.*

*The Financial Ombudsman Service is an independent service in the UK for settling disputes between consumers and businesses providing financial services. You can find more information on the Financial Ombudsman Service at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)."*

**Commercial policies**

*"In the event that you remain dissatisfied and wish to make a complaint, it may be possible in certain circumstances for you to refer the matter to the Complaints team at Lloyd's.*

*Their address is:*

Complaints  
Lloyd's  
One Lime Street  
London EC3M 7HA

Tel No: 020 7327 5693  
Fax No: 020 7327 5225  
E-mail: [complaints@lloyds.com](mailto:complaints@lloyds.com)  
Website: [www.lloyds.com/complaints](http://www.lloyds.com/complaints)

*Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint - How We Can Help" available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints) and are also available from the above address. If you remain dissatisfied after Lloyd's has considered your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service.*

*The Financial Ombudsman Service is an independent service in the UK for settling disputes between consumers and businesses providing financial services. You can find more information on the Financial Ombudsman Service at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)."*