

# LLOYD'S CANADIAN COMPLAINTS

## Handling Canadian Complaints at Lloyd's: Guidance for coverholders and Third Party Administrators

This guidance will provide a practical process for handling Canadian complaints received from Lloyd's policyholders.

The process is intended to complement the procedures that coverholders and Third Party Administrators (TPAs) will already have in place for the proper handling of complaints in accordance with the applicable regulations.

These arrangements have been introduced to ensure Lloyd's underwriters can meet the regulatory expectations of the UK regulator, the Financial Conduct Authority (FCA) and are consistent with Canadian regulatory requirements. Lloyd's also believes that, by properly recording details of all complaints received, coverholders, TPAs and managing agents are provided with an invaluable source of business information that can be used to improve products and the service provided. This benefits policyholders and the businesses in the Lloyd's market, including coverholders and TPAs.

### General Requirements

- All emails (with the exception of notification spreadsheets) must only contain data relating to a single policyholder.
- All email attachments must be password protected using the managing agent / coverholder standard password provided to Lloyd's Complaints team.
- Lloyd's Complaints team are not to be copied in to emails between managing agents and their representatives. Any additional documentation supplied that is not required will be deleted.
- All documents including original complaints, investigation ongoing letters and stage one responses are to be submitted in pdf format. Local language documents may be provided as Word documents.

### What is a complaint?

Coverholders and TPAs must have in place procedures that allow complaints to be made by any reasonable means, including orally. The definition of a complaint in Canada is:

*"A complaint is the expression of at least one of the following elements that persists after being considered and examined at the operational level capable of making a decision on the matter:*

- *a reproach against an organization;*

- *the identification of a real or potential harm that a consumer has experienced or may experience;*
- *a request for a remedial action.*

*Complaints are generally expressed in writing through correspondence, e-mail, fax or other form that allows a complaint to be kept on file. Where a consumer makes a complaint by phone or in person and the complaint is handled and examined by the person responsible for the examination of complaints and designated as such in the organization's policy, the complaint must be documented so that it can be kept on file.*

*The initial expression of dissatisfaction by a consumer, whether in writing or otherwise, will not be considered a complaint where the issue is settled in the ordinary course of business. However, in the event the consumer remains dissatisfied and such dissatisfaction is referred to the person who is responsible for the examination of complaints and designated as such in the organization's policy, then it will be considered as a complaint.*

*However, organizations must refrain from any undue delay in referring a matter to a higher level solely for the purpose of avoiding reporting requirements.*

*Where a consumer remains dissatisfied after a reasonable attempt has been made to settle the issue, organizations without a multilevel complaint examination structure are then considered to have received a complaint."*

### **Which complainants?**

A consumer means all current and prospective customers of insurance products.

### **Coverholders/TPAs without complaints handling authority – process to be followed**

#### **Coverholders**

- Not all coverholders have delegated authority to handle complaints. For example, complaints most often arise from claims handling and if the coverholder does not have authority to handle claims the managing agent may ask the TPA that handles claims to deal with any complaints that arise. Alternatively, the managing agent may deal with complaints in-house.
- In this case the coverholder should send to Lloyd's underwriters (or the relevant TPA) details of all complaints received by the coverholder together with all documents relevant to the complaint. This may be done via the coverholder's Lloyd's broker. The coverholder should ensure that it has arrangements in place to identify complaints for onward notification.
- The parties may agree that the coverholder will send an acknowledgement to the complainant promptly and where possible within two business days of receipt of any complaint.
- To ensure consistency of approach, binding authority clause LMA 5299 (Canadian Policyholder Complaints Handling Procedure Clause (no authority to handle complaints)) should be used to give effect to the above.

#### **TPAs**

- Where TPAs do not have authority to handle complaints they should have arrangements in place for the forwarding of complaints to the managing agent of the lead Lloyd's syndicate in line with the arrangements described above for coverholders. The agreement between underwriters and the TPA should document the TPA's obligations with regard to handling complaints and LMA 5299, with appropriate modifications, may be a suitable basis for this.

## I. Coverholders/TPAs with complaints handling authority – process to be followed

### Coverholders

- Where coverholders have complaints handling authority Lloyd's underwriters will include in the binding authority agreement LMA 5298 – (Canadian Policyholder Complaints Handling Procedure Clause (authority to handle complaints)). This sets out the contractual obligation of the coverholder to handle complaints and specifies the level of authority given to the coverholder to offer redress or remedial action when responding to complaints. LMA 5298 is a standard contractual clause designed to ensure that underwriters do not seek to require that coverholders follow different arrangements.
- Coverholders will already have in place arrangements for acknowledging and handling complaints received from policyholders in accordance with the relevant Canadian laws and regulations and which meet Canadian best practice. The following timescales are intended to reflect current best practice:
  - Complainants should receive a written acknowledgement of the complaint promptly and, where possible, within two business days of receipt of the complaint.
  - Complainants should receive a stage one response to the complaint as soon as practicable and in any event within 10 business days of the complaint being received
- A table showing the process to be followed is included at the end of this note.

### Notifying complaints to Lloyd's

- Within two weeks of receipt of the complaint, the coverholder must complete the Lloyd's International Complaint Notification Template, which should be downloaded from [www.lloyds.com/complaintshandling](http://www.lloyds.com/complaintshandling), with details of the complaint received. Coverholders must use the template provided by Lloyd's and should not create their own. The spreadsheet should be sent to Lloyd's Complaints team at [complaints-notification@lloyds.com](mailto:complaints-notification@lloyds.com). The subject line of the email should state 'Notification Spreadsheet' unless the spreadsheet is automatically created by a complaint management database. The email should only contain the spreadsheet and no other documentation.
- A copy of this email should be sent to the coverholder's Lloyd's broker for onward transmission to the managing agent of the lead syndicate. Alternatively, rather than notifying Lloyd's Complaints team directly, the coverholder can agree to provide this information to the managing agent of the lead syndicate for the managing agent to notify the complaint to Lloyd's.
- There is no need to include complaints which were brought to the attention of the managing agent or coverholder by Lloyd's Complaints team however complaints forwarded by Lloyd's Canada must be included.
- There is no requirement for a nil return where no new complaints have been received.

- On policies or binding authorities where there is more than one syndicate participating, Lloyd's expect the lead syndicate to notify the complaint.
- The following table explains how to complete the International Complaint Notification template. Completion of all fields is mandatory, with the exception of the address field. Coverholders should ensure that they provide the information in a way that is compliant with the applicable data protection laws.

Field	Comments
Submitting company	This is the name of the managing agent or its representative, whichever of the two is completing the template.
Coverholder	If the policy was underwritten by a coverholder, insert the coverholder name in this field.
Third Party Administrator	If a TPA is involved, select the TPA name from the dropdown list.
Policyholder Surname	This is the name of the insured individual. Either the surname or company name must be completed.
Policyholder Company Name	This is the name of the insured entity. Either the surname or company name must be completed.
Address (Optional)	Insert a correspondence address for the policyholder. This field is optional.
Zip Code	Insert the zip code for the policyholder.
Policy number	Please ensure that the Policy Number detailed on the spreadsheet is referenced on the complaint response.
Policyholder Location	The territory in which the insured is located. Select from drop down list.
Date received	Insert the date the complaint was received by the managing agent or its representative.
Complaint code	Select from drop down list.
Product type	Select from drop down list.
Placement	Select from drop down list.^
Syndicate number	Lead syndicate on the coverage.* Select from drop down list.
Root Cause	Select from drop down list. This field is optional.

^ **Binder** – an agreement between a managing agent and a coverholder under which the Lloyd's managing agent delegates its authority to enter into a contract or contracts of insurance to be underwritten by the members of a syndicate.

**Line slip** - an agreement between a group of Lloyd's managing agent and a Lloyd's Broker where in a specific class of insurance business certain named or otherwise designated Underwriters or insurance companies within the group may accept Risks introduced by that Lloyd's Broker on behalf of all of the Members of the group in accordance with the terms of the agreement.

**Master Policy** - an insurance policy issued to a Master or Group Policyholder (the “Policyholder”) who purchases the insurance to provide the benefit of insurance coverage for others, usually individuals (the “covered parties”). The individuals who are covered parties, however, are not parties to the insurance contract.

**Open Market** - Insurance business that may be offered to and placed with any Lloyd’s managing agent that is willing to underwrite it on behalf of its managed syndicate. It excludes business that is underwritten pursuant to a binding authority.

\*If written on a multi-binding authority agreement basis, please leave blank and set out in an email the lead managing agent for each contract and the share of the risk placed on each binding authority.

- The spreadsheet should be named ‘International\_Notification’ and saved as an xls document, no additional columns should be added to the spreadsheet.
- Complaints will be entered onto the complaints monitoring database by Lloyd’s to enable effective monitoring and regulatory reporting. No verification checks will be performed on the spreadsheet prior to upload and it will be loaded as received. In the event that the spreadsheet fails to load successfully, the spreadsheet will be returned to the managing agent, or their representative, with details of the records that have failed. These incorrect records should be resubmitted on the next spreadsheet. NB The complaint will not be classed as logged for performance oversight purposes until the corrected spreadsheet is received and the complaint is successfully uploaded.

### **Acknowledgement of complaints**

- All complaints are to be acknowledged promptly and, in writing. Lloyd’s expectation is that acknowledgements are sent within 2 business days where possible.
- Complaints received in the first instance to Lloyd’s Complaints team will be recorded and acknowledged by Lloyd’s Complaints team. Once the relevant managing agent is identified the complaint will be notified to the individual nominated by the relevant managing agent, for a stage one review.

### **Response to complainant**

- In all cases a stage one written response must be sent to the complainant within 10 business days of the complaint being received.
- All stage one responses must outline the right of the complainant to request a stage two review (with details of how this can be done) and set out the availability of the relevant EDR, whether, GIO, AMF, FCAC or the UK Financial Ombudsman Service (FOS). The response should not be referred to as a Final response.
- Lloyd’s Canada must be copied in on all stage one responses.
- The letter should set out details of any redress or remedial action being offered. This includes:
  - Payments to put the complainant back into the position the complainant should have been in had the act or omission complained about not occurred, including any claim payments.

- Amounts paid for distress and inconvenience.
  - Goodwill payments and goodwill gestures.
  - Interest on delayed settlements.
  - Waiver of an excess.
- A copy of the response together with a copy of the original complaint must be emailed to [complaints-notification@lloyds.com](mailto:complaints-notification@lloyds.com) within two business days after the response is sent to the complainant. There is no requirement for these documents to be translated to English; this will be arranged by Lloyd's. The subject line of the covering email should state 'Stage One Response – policyholder name'. The body of the email should confirm:
    - policy / claim number used to notify the complaint to Lloyd's
    - stage one decision (justified or not justified)
    - if justified, the grounds for justification and action taken, using Lloyd's standard options
    - redress payable
    - root cause of complaint (if not provided on notification spreadsheet)
      - Claim – coverage / terms and conditions
      - Claim – customer service
      - Claim – delay
      - Claim – quantum
      - Claim – standard / duration / delay of repair
      - Cancellation / refund
      - Customer Service – non-claims related
      - Product suitability
      - Other (we would expect this option to be rarely used)
    - coverholder (if not provided on notification spreadsheet)

### TPAs

- TPAs with the authority to handle complaints should follow the process outlined above for coverholders. The agreement between underwriters and the TPA should document the TPA's obligations with regard to handling complaints and LMA 5298, with appropriate modifications, may be a suitable basis for this.

### Further Information

For further information on Lloyd's arrangements for complaints handling, coverholders should contact their Lloyd's Broker and TPAs should contact their appointed managing agent. Alternatively enquiries can be sent directly to Lloyd's at [internationalcomplaints@lloyds.com](mailto:internationalcomplaints@lloyds.com).

Information about Lloyd's arrangements for complaints handling in Canada can be found at [www.lloyds.com/complaintshandling](http://www.lloyds.com/complaintshandling) in the International Complaints Section.

## Frequently Asked Questions (FAQs)

**1. Does the process mean that we are expected to change the way we respond to complaints from our policyholders?**

No. The new process is primarily a reporting process.

**2. Local carriers do not ask for this information. Why are you?**

We fully recognise that some of our compliance requirements may go beyond some requirements of local carriers. However, we have introduced a process that is as streamlined as possible and is based on Canadian regulatory requirements. It should not change how you deal with complaints. We think it will involve very little additional work.

We do also believe that having complaints data shared between coverholder/TPA and managing agent is valuable and can lead to improvements in products and in the service the customer receives, to the benefit of policyholders and ultimately to the businesses at Lloyd's, including coverholders/TPAs.

**3. Do coverholders need to maintain a log of complaints?**

Yes. In accordance with LMA model wordings LMA 5298 and LMA 5299, coverholders are required to maintain a log of all complaints received.

**4. Can managing agents ask for a regular copy of the coverholder's complaints register?**

No but coverholders should provide a copy of their complaints register on request. This is intended to cover audits, reviews and exceptional circumstances only and is not intended to refer to regular reporting by the coverholder. The managing agent should maintain their own register of complaints and not rely on the coverholder for this.

**5. We are a wholesale agent and we do not deal directly with the end policyholder. Do we need to ask the retail brokers to forward all complaints they receive to us?**

No. However, if a broker forwards on to you a complaint from a policyholder, then if that is a reportable complaint under our definitions, it should be reported.

**6. Will we need to submit 'nil' returns to you?**

No. You will only need to report if and when you receive a complaint.

**7. Do we need to report any non-Lloyd's complaints we receive?**

No.



**8. If a policyholder writes to us objecting to a proposed change in the premium or coverage on renewal of the policy, is that a complaint?**

No. You are entitled to make changes to the basis on which you will provide coverage. If the policyholder writes to you disagreeing with the proposed change, that does not constitute a complaint

**9. If we receive a lawsuit should we regard that as a complaint and follow the complaints process?**

No. You should follow whatever process is usually followed in the event that legal proceedings are initiated.

**10. If we receive a letter from the policyholder's lawyer threatening a lawsuit should we regard that as a complaint and respond as such (and report that to underwriters)?**

Where there is a threat of litigation we recognise that you will need to respond in a way that appropriately protects all legal rights and that therefore you may not want to provide a full written response to the complainant. We do ask that you record the matter as a complaint and notify Lloyd's accordingly, using the usual template. We also ask that if you send a response to such a letter, you send a copy of the response to Lloyd's with the original letter received which stated the intention to commence the lawsuit. If you determine that no response should be sent then please simply indicate that determination to Lloyd's via email.

**11. What will underwriters and Lloyd's do with this complaints data? Will you use it as a reason to cancel our binding authorities?**

No. Receiving complaints is a normal part of any business and is not, of itself, a matter of concern. What is important is that the coverholder/TPAs and the managing agent identify and learn from complaints. Whilst we will use the data to monitor the market and spot any outliers, we do not intend to use the data to direct that binding authorities are cancelled (other than in the most extreme circumstances). The data is also required by Lloyd's for the purposes of providing complaints data to the UK Financial Conduct Authority (FCA).

**12. You have said that we would need to notify Lloyd's upon receipt of a complaint as well as once a complaint is concluded, sending the actual complaint along with the response. If we get a complaint and respond to it say within three days, is it necessary to notify you and then send the response separately?**

No. Just send the complaint and your response at the same time as you send the notification using the Lloyd's Complaint Notification Template. Also if you can deal with the complaint within three days you won't have to send the complainant a separate acknowledgment. Complaints have to be notified to Lloyd's within two weeks of receipt so in many instances you will hopefully be in a position to provide the complaint and your response at the same time as notifying Lloyd's of the complaint.

**13. I don't want to send this template directly to Lloyd's. Can I ask the managing agent of my lead syndicate to prepare it for me and submit it?**

Yes you can. But if you do agree that with your managing agent, it is important to note that Lloyd's must receive the template in the format we have developed. Therefore you will need to provide the necessary information to the managing agent so they can prepare and submit the return.

**14. Should we follow this process for complaints relating to large risks and policyholders that are not in-scope?**

No. This process must only be used for policyholders that are in-scope.

**LLOYD'S COMPLAINTS PROCESS – CANADIAN COMPLAINTS**

