Establishment of Office of Insurance Ombudsman and Insurers' Complaint Handling Protocol

Bulletin

No. G-05/96

General

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The Ontario Insurance Commission (OIC) is inaugurating new measures that will enhance the capacity of the insurance system to resolve consumer complaints. An Insurance Ombudsman is being established at the OIC, consistent with recent changes to the Insurance Act introduced by the Automobile Insurance Rate Stability Act, 1996 ("Bill 59"). To facilitate the operation of the Office of the Insurance Ombudsman, companies are being required to have in place an internal protocol for dealing with consumer complaints (the "Protocol"). The Protocol process was developed in consultation with the insurance industry.

The Insurance Ombudsman

The Office of the Insurance Ombudsman for Ontario is to be established within the OIC to inquire into consumer complaints about the business practices of insurers. The Insurance Ombudsman will function as the last resort for the informal resolution of complaints. Consumers must attempt to resolve their complaints directly with their insurer before accessing the Insurance Ombudsman.

The Office of the Insurance Ombudsman will be opened when Bill 59 is proclaimed. We are enclosing a draft copy of an OIC Information Sheet outlining the role of the Insurance Ombudsman in Ontario. This was created in response to a request by an industry-government implementation committee under Bill 59.

The Protocol

Most insurers already have in place procedures for dealing with consumer complaints. The requirement to have a Protocol is intended to ensure that **all** companies implement such procedures. The Facility Association is also being asked to establish a Protocol.

A complaint handling Protocol is necessary to ensure that the Office of the Ombudsman only deals with matters after the insurer has had an opportunity to resolve them.

The existence of complaint handling Protocols across the industry should improve the ability of consumers to resolve their complaints directly with their insurers and thereby increase consumer confidence in the insurance marketplace.

The OIC anticipates that following the implementation of the Protocol, consumers will have a clearer view of insurers' complaint handling procedures. That is, consumers would know who to contact at insurers to formally initiate a complaint, what insurers' complaint handling procedures are and how long the procedures might take. Consumers would also be aware of the legislative requirement to first go through insurers' complaint handling procedures before seeking the services of the Insurance Ombudsman.

Companies are encouraged to design a consumer complaint handling Protocol that suits consumer and insurer needs. To allow for maximum flexibility, there are a only few minimum standards that must be met (see below under "Summary of Insurers' Complaint Handling Roles").

Insurers must file, by October 1, 1996, a completed copy of the "Complaint Handling Protocol Form", which is attached. The form must be signed by an officer of the company. The filing of the form is intended to confirm that a company has a Protocol; that the Protocol is communicated to staff, adjusters and distribution systems; and that procedures are in place to provide information about the Protocol to consumers upon request. The form also requires a company to identify the Company/Ombudsman Liaison Representative who will serve as the insurer's link with the Office of the Insurance Ombudsman.

Summary of Insurers' Complaint Handling Roles

1. Insurers are required to develop a Protocol to deal with consumer complaints.
2. The Protocol must include the naming of a Company/Ombudsman Representative to liaise with the Insurance Ombudsman's Office.
3. Should a complaint against an insurer remain unresolved after going through its Protocol process, the insurer must provide to the complainant a letter outlining its final position on the complaint.
4. Insurers are required to communicate their Protocol to their staff, adjusters and distribution systems. Information about the Protocol must be available to consumers upon request.
5. A completed copy of the "Complaint Handling Protocol Form", signed by an officer of the company, must be filed with the OIC by October 1, 1996.
6. Any future changes to the information on the "Complaint Handling Protocol Form" must be filed with the OIC immediately after they are made.

D. Blair Tully
Commissioner

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How the Insurance Ombudsman can help consumers with complaints

The Office of the Insurance Ombudsman, or Insurance Ombudsman for short, has been created to assist you with any complaint you may have with insurance companies that are licensed to operate in Ontario.

The Insurance Ombudsman offers assistance after you have tried to resolve your complaint directly with your insurance company. All insurance companies are required to have a "complaint handling protocol" to deal with complaints.

Only when the insurer is unable, for whatever reasons, to resolve your complaint can you use the complaint handling services available through the Insurance Ombudsman's Office.

If you and your insurer cannot arrive at an agreement, the insurer must send you a letter stating the reasons for their decision. A copy of this letter must be part of your application to seek the assistance of the Insurance Ombudsman.

The law states that the Insurance Ombudsman is a last resort for informal resolution of complaints about the business practices of insurance companies in Ontario. The Insurance Ombudsman's report is not binding.

The Insurance Ombudsman thus performs a special role, adding to what is already performed by the Ontario Insurance Commission (OIC) in the areas of regulating the insurance industry. The Office of the Insurance Ombudsman is located within the OIC.

Special note: You may also want to consider dealing with your complaint either through an informal process such as alternative dispute resolution or through a more formal process such as the Ontario court system.

Below are several of the most frequently asked questions about Ontario's Insurance Ombudsman and the answers to those questions.

Q1. What exactly does the Insurance Ombudsman's Office do?

A1. The Insurance Ombudsman's overall function is to deal with complaints from insurance consumers about the business practices of insurance companies in Ontario, and to make a final report on a complaint. To do so, the Insurance Ombudsman:

- encourages insurance companies to resolve complaints when they are first lodged at the companies;
- provides an accessible service to the public who have complaints about the business practices of insurance companies, that have not been resolved after going through the insurer's complaint process;

- protects the public by ensuring that insurers have fair business practices, that the practices do not conflict with the public interest, and that they fully comply with the law; and
- fosters public confidence by examining each complaint and looking carefully at all aspects of each case as they relate to the law.

Q2. What can the Insurance Ombudsman do and cannot do to help complainants?

A2. Here's what the Ombudsman can do: The Ombudsman can look into complaints about the business practices of insurance companies.

There are several specific things, however, that the Ombudsman cannot do. The Ombudsman cannot inquire into a complaint that:

- has not been submitted to the insurance company and gone through the insurer's complaint process, which is officially known as its Complaint Handling Protocol;
- is being or has been dealt with by a court or an alternative dispute resolution process;
- has already been dealt with by the Insurance Ombudsman; and
- is frivolous or vexatious, in the opinion of the Insurance Ombudsman.

Q3. How does the insurance company's complaint handling process work for me?

A3. The complaint handling process that every insurance company has put in place aims at discussing any complaint you may have and reaching an agreement on dealing with the complaint(s).

There are various steps in the company's complaint handling process. If an agreement cannot be reached, or it is taking an unreasonably long time to reach, the company is required to send you a letter stating its final position on the matter. You will need this letter when contacting the Insurance Ombudsman for assistance with the complaint.

Q4. How do I go about contacting the Insurance Ombudsman's Office for help with my complaint?

A4. To obtain the Insurance Ombudsman's services in dealing with your complaint, you must write a letter. No special application form is needed. In your letter, you must outline the nature of the dispute you have with the insurance company as well as describe what you want the company to agree to. Before mailing your letter, you must also enclose a copy of the letter from the company stating its final position. This should be done within six months from the date of the company's letter.

If you have retained a lawyer to handle the matter, he/she should send the complaint to the Insurance Ombudsman.

If you are writing the Insurance Ombudsman on behalf of a friend or a relative, you should include a note signed by the person for whom you are acting, stating that the person is

authorizing you to do so. In those instances, when it is not possible to obtain such authorization, you should explain the circumstances in writing.

Q5. What happens to my complaint after I have sent it to the Insurance Ombudsman's Office?

A5. The Insurance Ombudsman will, first of all, review the complaint and advise you whether the complaint is within the jurisdiction of the Insurance Ombudsman. If it is, you will be advised of the name and telephone number of the person in the Insurance Ombudsman's Office who will be inquiring into the complaint.

At any stage of the inquiry, the Insurance Ombudsman may decide that the complaint should be dealt with by another organization, for example, the Registered Insurance Brokers of Ontario. In such a case, the Insurance Ombudsman will inform you of the situation and if you, as the complainant agrees, the complaint will be referred to the organization.

When the inquiry is completed, the Insurance Ombudsman will send you a final report in writing. Please note that the report is not binding. You may decide to pursue the matter further through another alternative dispute resolution method or the courts.

After the inquiry, the Insurance Ombudsman may work closely with the Superintendent of Insurance if further investigation and enforcement are required.

Q6. How can I contact the Office of the Insurance Ombudsman?

A6. Your letter of complaint, enclosing the insurance company's letter stating its final position, should be sent to:

The Insurance Ombudsman
Ontario Insurance Commission
5160 Yonge Street
Box 85
North York, Ontario
M2N 6L9

Fax (416) 590-7070