

Safeguarding Claims Protocol

Trinitas Church Insurance Services uses Aviva's knowledge and expertise to handle any safeguarding claims. The protocol below explains how Aviva will deal with these.

The guiding principles for all circumstances

1. Aviva is mindful that confidentiality will be of utmost importance to its policyholders, and will seek to uphold the policyholder's wishes as regards confidentiality in the claims handling process and in concluding any settlement.
2. Aviva recognises its policyholders may wish to consider whether an apology or acknowledgement of what has happened is appropriate. Although the Compensation Act (Part 1, section 2) provides that offering an apology, treatment or other redress will not in itself amount to an admission of negligence or a breach of statutory duty, it is important that the policyholder and/or policyholder's representative are careful that statements made do not admit liability in relation to specific claims or allegations. We recommend consultation with Aviva before taking such steps.
3. Aviva also supports its policyholders considering providing or offering pastoral care, counselling and/or other forms of support. The 2015 Rehabilitation Code specifically allows for this, and an offer to pay for counselling or other treatment would not in itself be deemed to be an admission of liability. However, in order to ensure that the policyholder and/or policyholder's representative does not prejudice its position, we recommend consultation with Aviva before taking such steps.
4. All claims including allegations of physical, sexual or emotional abuse will be handled by Aviva's specialist abuse claims handling team, and each claim will be dealt with by an experienced claims handler. All claims will be handled sensitively, and Aviva will approach all claims involving allegations of abuse consistently, fairly and in a timely manner.

Purpose

5. This Safeguarding Claims Protocol sets out the background to Aviva's claims handling processes in respect of abuse claims.
6. The Protocol sets out the steps which must be taken by the policyholder and/or policyholder's representative when it is notified of a complaint or receives a legal claim and explains the process which Aviva's claims handling team will follow.
7. The Protocol also explains the legal claims process which will be followed by survivors of abuse when pursuing a legal claim and sets out the principles which Aviva believes should be followed when handling abuse allegations and claims.

The Claims Process

8. The Pre-Action Protocol, which forms part of the Civil Procedure Rules, sets out the procedures to be followed by the parties before formal legal action is taken. A failure to comply with the Pre-Action Protocol may be brought to the attention of the court by the aggrieved party and may lead to costs penalties if the judge considers this appropriate.
9. The claimant must send a Letter of Claim to the defendant, including the following information:
 - (1.a) A clear summary of the facts on which the claim is based (including the timeline of the alleged abuse, details as to who the alleged abuser is);
 - (1.b) An indication of the nature of any injuries suffered;
 - (1.c) The claimant's present medical condition;
 - (1.d) The financial loss incurred by the claimant.

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10. Within 21 days of receipt of the Letter of Claim, the defendant must acknowledge receipt.
11. Following the Letter of Acknowledgement, the defendant has a period of 3 months in which to investigate the claim. The Letter of Response must be sent to the claimant within 3 months from the Letter of Acknowledgment, stating whether liability is admitted or disputed (and if disputed, the reasons for this). The time for investigation and response can be extended, especially when the allegations are historic. It is normal for a limitation moratorium to be agreed whilst investigation is undertaken so the claimant does not have to issue proceedings.
12. The Pre-Action Protocol also makes provision for the following:
 - (1.a) **Disclosure:** the Protocol encourages the early exchange of relevant information to help in clarifying or resolving the issues in dispute;
 - (1.b) **Experts:** the Protocol encourages joint selection of experts, and promotes the practice of the claimant obtaining a medical report and providing it to the defendant for the purposes of discussion and/or agreement;
 - (1.c) **Alternative Dispute Resolution (“ADR”):** the parties should consider whether negotiation or some other form of ADR (such as mediation) might enable them to resolve their dispute without commencing proceedings.

What the policyholder should do following notification of a complaint or claim

13. Before making a formal legal complaint by way of a Letter of Claim, a claimant may notify a policyholder of an allegation of abuse.
14. Upon notification of a complaint or receipt of a Letter of Claim which includes an allegation of physical, sexual or emotional abuse, the policyholder and/or policyholder’s representative should consider police or other safeguarding agency notification and must notify Aviva’s abuse claims handling team as soon as reasonably possible. The team can be contacted by telephone, email or letter. Contact information is at the foot of this document.
15. The policyholder and/or policyholder’s representative must provide Aviva with any and all correspondence and documents received in relation to the complaint or Letter of Claim.
16. The policyholder and/or policyholder’s representative is encouraged to acknowledge the complaint or Letter of Claim in a way which recognises the sensitive nature of the complaint and that the process of making a complaint will have been a difficult step for the claimant. The policyholder and/or policyholder’s representative should explain the steps which will be taken. Aviva’s claims handling team can assist with preparing such an acknowledgement, and will need to agree it prior to a response being sent to the claimant.

Aviva’s claim handling process

17. Aviva’s specialist physical and sexual abuse claims handling team will review the complaint or Letter of Claim, and will confirm the insurance cover is in place.
18. Provided that insurance cover is in place, the claim will be allocated to an experienced claims handler within the abuse claims handling team.
19. The claims handler will investigate the claim, having regard to the following:
 - (1.a) The sensitive nature of the allegation;
 - (1.b) Issues concerning data protection;
 - (1.c) The need to ensure that any action taken in relation to the civil claim does not compromise any parallel criminal investigations;
 - (1.d) The fact that the policyholder may also be running a safeguarding investigation alongside any civil and/or criminal action.
20. The complaint or Letter of Claim will identify the alleged abuser. The claims handler will need to assess whether the insured policyholder is liable for the actions of the alleged abuser, which will involve an assessment of the relationship between the alleged abuser and the policyholder, and whether the entity in question has its own insurance. In the particular case of a claim brought against the office of a bishop, notification must be given to the Church Commissioners as soon as possible in order that a view can be taken on whether an indemnity should be provided to the office of the bishop. The claims handler will therefore need to discuss the complaint with the Church Commissioners.

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21. Aviva will need to review or obtain medical evidence in order to consider the impact of the alleged abuse on the claimant and to assess the financial value of the civil claim. In some cases, the claimant may have obtained their own medical evidence. If not, Aviva may need to obtain medical evidence. The Pre-Action Protocol promotes the appointment of a joint expert, although this is rare in practice. Where appropriate and possible, Aviva will support the instruction of a joint expert.
22. Where the liability of the policyholder is clear, Aviva recommends an early admission of liability should be made, so as to avoid a lengthy process for the claimant and in order to keep legal costs to a minimum.
23. Where liability has been established, and Aviva has been able to assess the financial value of the claim, Aviva recommends that an offer to settle the claim should be made as soon as reasonably possible. Following an offer being made, it may be appropriate to hold a settlement meeting with the claimant and his/her legal team to discuss the offer. Alternatively, a more formal settlement process such as mediation may be appropriate.
24. Aviva will not use the lack of availability of medical evidence as a reason to avoid making an early settlement offer, provided that Aviva has sufficient information available to assess the financial value of the claim.

Guidance to policyholders

25. The policyholder and/or policyholder's representative must ensure that it does not take any action which may imply legal liability or prejudice the position of Aviva. The policyholder must, at all times, comply with the terms of its policy.
26. Aviva recommends that the policyholder should respond constructively from the outset, and not in such a way as could be perceived to be negative or unhelpful.
27. Pursuant to the provisions of the Limitation Act 1980, a claim for personal injury must be brought within three years of the claimant being aware that they have been injured. However, the courts have the power to extend the limitation period in accordance with section 33 of the Limitation Act, and frequently exercise this power in relation to claims for physical and sexual abuse. In any event, Aviva acknowledges that a defence of limitation should only be pleaded in circumstances, where the delay in bringing the claim has or may have caused serious prejudice in the ability to investigate and validate a claim.
28. Aviva acknowledges that an argument that a claimant consented to the abuse should not be used as a defence.
29. Claims under the scheme will be handled by Pro Insurance Solutions as agents of and on instruction by Aviva.

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