



Insurance Adjusters' Council
Code of Conduct

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INTRODUCTION

The strength of the insurance industry is based, in part, on industry members providing advice and services to the public in a competent and professional manner. The underlying principle of all insurance business is utmost good faith. To command the confidence and respect of the public, the insurance industry must maintain a reputation for integrity, competence and good faith.

In keeping with the Insurance Adjusters' Council's mandate, the purpose of the Code is to define and communicate standards of conduct for use by adjusters in their practice of the business of insurance. The Code is also used as a guide by the Council in its deliberations on proper and usual practice in particular circumstances.

The Code sets out minimum standards of conduct. The extent to which each adjuster rises above these standards is a personal decision. However, by striving to maintain the highest possible standards of ethical conduct, an adjuster will enjoy the respect and confidence of the public and other members of the industry.

Adjusters have a responsibility to assist in the regulatory process and act as gatekeepers for the industry by encouraging compliance with the spirit of this Code.

EXECUTIVE SUMMARY

1. INTEGRITY AND TRUSTWORTHINESS

1.1 Principle

In an industry where trust is the foundation of all dealings, insurance adjusters must meet rigorous standards of personal integrity and professional competence. These characteristics speak to the essence of what an adjuster does. Failure to adhere to the standards reflects not only on the adjuster, but also on the entire profession. Integrity and trustworthiness are fundamental elements of each requirement in the Code.

2. GOOD FAITH

2.1 Principle

The insurance industry is based on fiduciary relationships. Accordingly, the exercise of good faith by adjusters in adjusting claims is essential to public confidence in the industry. Good faith is a fundamental aspect of an adjuster's conduct and a key element in each of the Code's requirements.

3. COMPETENCE

3.1 Principle

Competence on the part of an adjuster is essential and instrumental in achieving a fair and equitable settlement. It follows that an adjuster should not undertake to perform any insurance adjusting activities beyond their level of competence.

4. FINANCIAL INTEGRITY

4.1 Principle

An insurance adjuster is sometimes entrusted with money, property, documents and financial instruments to facilitate the settlement of claims. An adjuster's reliability in handling all of these is essential.

5. CONFIDENTIALITY

5.1 Principle

In the course of performing their duties, adjusters gather information for the purpose of evaluating claims and detecting and preventing fraud. An adjuster shall hold all information in strict confidence and shall not divulge any such information unless authorized to do so or required by law.

6. DEALING WITH INSURERS

6.1 Principle

Under the Code, an insured includes anyone who might reasonably be expected, in the circumstances, to rely on an adjuster's professional advice or actions in relation to their insurance. An adjuster is required to give fair and equitable consideration to the concerns and interests of the insured.

7. DEALING WITH PRINCIPALS

7.1 Principle

Under the Code a principal is a person who relies on an adjuster to, within the scope of their authority, investigate, negotiate and settle a claim on their behalf.

8. DEALING WITH ADJUSTERS

8.1 Principle

Adjusters represent the insurance industry to the public and broader community. The public views the industry as a single entity. Treating colleagues with courtesy and respect enhances the reputation of the adjuster and the public's confidence in the insurance industry.

9. DEALING WITH THE PUBLIC

9.1 Principle

The insurance industry provides services upon which the well-being of individuals and businesses depend. It is in the interest of all adjusters to conduct themselves in a manner that promotes public confidence in the integrity and reliability of the insurance industry.

10. DEALING WITH THE ALBERTA INSURANCE COUNCIL

10.1 Principle

Adjusters, industry and the public benefit from a degree of peer review under the Act and Regulations. This privilege requires the co-operation and support of adjusters.

11. COMPLIANCE WITH GOVERNING LEGISLATION

11.1 Principle

Adjusters are expected to adhere to all statutory and regulatory requirements. Violations of these requirements are a violation of the Code and may subject adjusters to disciplinary action under the Act.

INTERPRETATION

The Code is divided into a number of subsections, each of which addresses a specific principle. Each principle is defined and further clarified with a stated Requirement. To provide adjusters with additional guidance, each subsection also includes Guidelines and Examples of Misconduct taken from past Council decisions.

The Code provides a framework for an adjuster to measure their conduct in particular circumstances. It is not possible to foresee every possible situation and describe the proper conduct. When reading the Code, keep in mind that although presented separately, all principles and requirements are interconnected. For example, the principle of Integrity and Trustworthiness is fundamental to all activities of an adjuster and to each principle outlined.

The Code is written in plain language to be clear and concise and should be read in conjunction with governing legislation. The Alberta Insurance Council has additional resources on its website: www.abcouncil.ab.ca

DEFINITIONS

Unless otherwise qualified in this Code, read:

- ❖ “Act” as the *Insurance Act*;
- ❖ “adjuster” as an individual that holds an adjuster’s certificate of authority;
- ❖ “Adjusting” as the negotiation of the settlement of a loss under a contract of insurance;
- ❖ “adjusting firm” as a licensed corporation, partnership or an individual sole proprietor insurance adjuster;
- ❖ “business” as a corporation, partnership or sole proprietorship;
- ❖ “Code” as this Code of Conduct;
- ❖ “Council” as the Insurance Adjusters’ Council;
- ❖ “Designated Representative” as an individual that holds an adjusters level 3 certificate of authority and has the responsibility for the management and supervision of the business;
- ❖ “good faith” (“uberrima fides” literally, of the utmost good faith) The basis of all insurance and reinsurance contracts. Both parties to the contract are bound to exercise good faith and do so by a full disclosure of all important material to the proposed contract;
- ❖ “principal” as a person or entity on whose behalf an adjuster has undertaken to perform adjusting services.

CODE OF CONDUCT PRINCIPLES

1. INTEGRITY AND TRUSTWORTHINESS

1.1 Principle

In an industry where trust is the foundation of all dealings, insurance adjusters must meet rigorous standards of personal integrity and professional competence. These characteristics speak to the essence of what an adjuster does. Failure to adhere to the standards reflects not only on the adjuster, but also on the entire profession. Integrity and trustworthiness are fundamental elements of each requirement in the Code.

1.2 Requirement

Adjusters must be trustworthy and must conduct all adjusting activities with integrity, reliability and honesty. The principle also extends beyond insurance business activities. Conduct in other areas may reflect on an adjuster's trustworthiness and call into question whether they are suitable to hold a certificate of authority.

1.3 Guidelines

1.3.1 Conduct that would reflect on an adjuster's integrity and trustworthiness include:

- ❖ Appropriately dealing with money or property;
- ❖ Proper use of the position or knowledge as an adjuster;
- ❖ Intentionally misleading principals, insurers, claimants, the Council or the Alberta Insurance Council;
- ❖ Knowingly prejudicing the interests of an insured or principal for personal gain; or
- ❖ Conduct in the nature of theft or fraud.

1.3.2 Acts of dishonesty outside an adjuster's professional life may reflect on the trustworthiness of an adjuster and the ability to hold a certificate of authority.

1.4 Examples of Misconduct

1.4.1 While acting in a position of trust for a volunteer organization, an adjuster misappropriated funds from the organization.

1.4.2 An adjuster used confidential client information for a purpose other than that intended by the client.

1.4.3 Made or assisted in making a false insurance claim.

1.4.4 Made false declarations to an insurer.

- 1.4.5 “Witnessed” a signature when the adjuster did not see the individual sign the document.
- 1.4.6 Made false and misleading statements to Council or the Alberta Insurance Council.
- 1.4.7 Materially misrepresented odometer readings or previous vehicle damage.

2. GOOD FAITH

2.1 Principle

The insurance industry is based on fiduciary relationships. Accordingly, the exercise of good faith by adjusters in adjusting claims is essential to public confidence in the industry. Good faith is a fundamental aspect of an adjuster's conduct and a key element in each of the Code's requirements.

2.2 Requirement

An adjuster must carry on the business of insurance in good faith. Good faith is honesty and decency of purpose and a sincere intention to act in a manner consistent with an insured's and principal's best interests, remaining faithful to the duties and obligations of an insurance adjuster.

An adjuster also owes a duty of good faith to insurers, claimants, fellow adjusters, regulatory bodies and the public

2.3 Guidelines

2.3.1 Conduct that would suggest a lack of good faith include:

- ❖ Willful disregard of duties and obligations under the Act, Regulations and the Code;
- ❖ Misrepresentation or failure to disclose material information;
- ❖ Making improper use of your position as an insurance adjuster;
- ❖ Employing or remunerating unlicensed persons to conduct insurance adjusting business; or
- ❖ Taking advantage of an individual's inexperience, ill health or lack of sophistication.

2.4 Examples of Misconduct

- 2.4.1 Signed as a witness to documents, but had not in fact seen them signed;
- 2.4.2 Directed an unlicensed employee to act as an adjuster;
- 2.4.3 Counseled an individual to misrepresent material information to an insurance company; or
- 2.4.4 Misrepresented findings of an investigation to the prejudice of an insurer.

3. COMPETENCE

3.1 Principle

Competence on the part of an adjuster is essential and instrumental in achieving a fair and equitable settlement. It follows that an adjuster should not undertake to perform any insurance adjusting activities beyond their level of competence.

3.2 Requirement

Adjusters must conduct all insurance adjusting activities in a competent manner. Competent conduct is characterized by the application of knowledge and skill in a manner consistent with the usual practice of adjusting a claim in the circumstances.

An adjuster must continue their insurance education to remain current in their skills and knowledge.

3.3 Guidelines

- 3.3.1 An adjuster's practice and level of service should be consistent with that which a reasonable and prudent adjuster in similar circumstances would exercise. Honest mistakes do not necessarily constitute a failure to adhere to the Code.
- 3.3.2 Adjusters shall use due diligence to ascertain the needs of the insured and their principals and shall not undertake any assignment if it is obvious it cannot be performed by them in a proper and professional manner;
- 3.3.3 Designated Representatives are responsible to the Alberta Insurance Council for all activities of the firm for which they act as a Designated Representative. As such, they must ensure the firm and its employees and independent contractors are properly supervised and operate in accordance with the conditions and restrictions on their certificates.
- 3.3.4 Adjusters who have supervisory duties must fulfill those duties competently. Failure to provide adequate supervision could reflect on the competence of the supervisor especially if the conduct occurred due to a lack of policies, procedures and training.
- 3.3.5 Adjusters must comply with the continuing education requirements under the regulations. However, these are minimum requirements and may not be sufficient to maintain appropriate standards, particularly if an adjuster works in specialized areas.
- 3.3.6 Adjusters must refrain from giving advice in areas beyond their expertise as insurance adjusters. For example, adjusters should refer matters that would be more properly dealt with by other professionals to those professionals.

3.4 Examples of Misconduct

- 3.4.1 An adjuster was unaware of the requirement to deliver a proof of loss form within the specific time period required by the Act.

4. FINANCIAL INTEGRITY

4.1 Principle

An insurance adjuster is sometimes entrusted with money, property, documents and financial instruments to facilitate the settlement of claims. An adjuster's reliability in handling all of these is essential.

4.2 Requirement

Insurance adjusters must be financially reliable. This means that an adjuster can be relied upon to properly safeguard and account for money, documents and property entrusted to them and to promptly deliver them in accordance with the circumstances.

4.3 Guidelines

4.3.1 Conduct outside an adjuster's professional life may reflect on an adjuster's financial integrity. For example, outstanding judgments, pending legal proceedings or bankruptcy may reflect on an adjuster's financial reliability.

4.3.2 Where an adjuster collects or receives funds or property they must:

- ❖ Not commit the funds without prior consent;
- ❖ Not use or apply the funds or property for purposes other than as authorized in the agreement; or
- ❖ Pay all funds collected or received less any deductions authorized.

4.4 Examples of Misconduct

4.4.1 An adjuster utilizes salvage goods while under their care and control.

5. CONFIDENTIALITY

5.1 Principle

In the course of an adjustment, information, documents and paper are gathered for the purpose of evaluating claims and detecting and preventing fraud. An adjuster shall hold in strict confidence all information acquired and shall not divulge any such information unless authorized to do so.

5.2 Requirement

An adjuster must keep their insured and principals information strictly confidential unless disclosure is authorized or required by law.

5.3 Guidelines

- 5.3.1 An adjuster must adequately protect confidential information.
- 5.3.2 An adjuster must not obtain confidential information about a person without the consent of that person except as permitted or required by law.
- 5.3.3 The requirement to protect confidential continues after the adjuster's involvement in a claim ceases.

5.4 Examples of Misconduct

- 5.4.1 Discussing confidential information with family and friends.
- 5.4.2 Except when seeking guidance or instruction regarding a claim, claims should not be discussed with other industry members in a manner that would divulge confidential information.
- 5.4.3 Improper disposal of closed files.
- 5.4.4 Accessing medical information without the consent of the person except as permitted or required by law.

6. DEALING WITH INSUREDS OR CLAIMANTS

6.1 Principle

Under the Code, an insured includes anyone who might reasonably be expected, in the circumstances, to rely on an adjuster's professional advice or actions in relation to their insurance. An adjuster is required to give fair and equitable consideration to the concerns and interests of the insured.

6.2 Requirement

When dealing with insured's an adjuster must:

- ❖ Properly identify themselves, their principal and their role as an adjuster;
- ❖ Adjust claims promptly and fairly; and
- ❖ Fully disclose information material to the insured's policy coverage, rights and obligations.

6.3 Guidelines

- 6.3.1 Where there is an irreconcilable conflict between an adjuster's duty to an insured and an adjuster's other interests or duties, the adjuster should decline to act in the matter.
- 6.3.2 An adjuster must take reasonable steps to keep the insured informed of the status of a claim and respond promptly to the insured's communications.
- 6.3.3 An adjuster must not attempt to influence the settlement of a claim through coercion, false or misleading statements or other improper means.
- 6.3.4 An adjuster must not seek to discourage legitimate claims or cause undue delay in adjusting a claim.
- 6.3.5 An adjuster must not take advantage of an insured's inexperience, lack of education, youth, lack of sophistication, unbusiness-like habits or ill health.
- 6.3.6 An adjuster must not accept financial inducement in exchange for recommending the services of a contractor.
- 6.3.7 An adjuster must fully and promptly inform an insured of material information regarding policy coverage, limitation periods, claim denials and their rights and obligations in the claims process, as required in the circumstances.
- 6.3.8 An adjuster must not mislead anyone as to the adjuster's role in adjusting a claim. This includes who is the principal, and who is responsible for hiring service providers (body shops, contractors).

- 6.3.9 An adjuster must refrain from giving legal advice or discouraging an insured from seeking legal advice.
- 6.3.10 An adjuster must not deal directly with a claimant where the claimant has retained a lawyer and the lawyer confirms this fact.
- 6.3.11 An adjuster must not obtain medical information about an individual without the consent of that individual.
- 6.3.13 An adjuster must deal with all formal and informal complaints or disputes in good faith and in a timely and forthright manner. This includes, when necessary, referring that complainant to other more appropriate people, processes or organizations.

6.4 Examples of Misconduct

- 6.4.1 Not communicating to an insured or claimant that the adjuster acts for the insurer and that the insured is responsible for hiring and work of contractors, even if facilitated by the adjuster.
- 6.4.2 Advising an insured or claimant that they must use a service provider of the adjuster's choosing.
- 6.4.3 Failing to identify a provision in a policy which requires a claim or aspect of a claim to be resolved by a limitation date.
- 6.4.4 Entering a restricted fire scene for the purpose of adjusting a property loss without the authorization from the local fire department.

7. DEALING WITH PRINCIPALS

7.1 Principle

Under the Code a principal is a person who relies on an adjuster to, within the scope of their authority, investigate, negotiate and settle a claim on their behalf.

7.2 Requirement

An adjuster owes a duty to principals for whom they act to:

- ❖ Protect the principal's interests;
- ❖ Use their full knowledge and abilities to perform their duties;
- ❖ Disclose all information material to the loss or claim;
- ❖ Decline to act where they have an undisclosed conflict of interest or financial interest in a loss or claim; and
- ❖ Act within the authority and instructions of the principal.

7.3 Guidelines

- 7.3.1 Although an adjuster receives instructions from their principal, an adjuster must not seek to discourage legitimate claims. When instructed to deny a claim that appears legitimate, the adjuster must express their concerns to the principal.
- 7.3.2 An adjuster shall not sign or associate themselves with any report, statement of representation which they know is false or misleading or which is prepared in a manner which might tend to be misleading or misrepresent an actual situation.
- 7.3.3 Where there is an irreconcilable conflict between an adjuster's duty to a principal and their other duties as an adjuster, the adjuster should decline to act in the manner.
- 7.3.4 An adjuster must only act in the settlement of a claim when they have authority from their principal and then according to the principal's instructions.
- 7.3.5 Fees for work should reflect a fair and reasonable charge for services provided.
- 7.3.6 Employees of principals should not be offered financial inducements in exchange for utilizing the adjuster's services.

7.4 Examples of Misconduct

- 7.4.1 Following instructions to cause undue delay in a claim.
- 7.4.2 Acting outside the authority given by the principal.

8. DEALING WITH ADJUSTERS

8.1 Principle

Adjusters represent the insurance industry to the public and broader community. The public views the industry as a single entity. Treating colleagues with courtesy and respect enhances the reputation of the adjuster and the public's confidence in the insurance industry.

8.2 Requirement

An adjuster must not defame or discredit other adjusters. Communications between and about adjusters should be conducted with professional courtesy and respect.

8.3 Guidelines

8.3.1 This principle is not meant to prevent adjusters from providing factual and relevant information about a fellow adjuster.

8.4 Example of Misconduct

8.4.1 Discrediting an adjuster because of the insurance company he or she acts for.

8.4.2 Utilizing threatening or abusive language to another adjuster.

9. DEALING WITH THE PUBLIC

9.1 Principle

The insurance industry provides services upon which the well-being of individuals and businesses depend. It is in the interest of all adjusters to conduct themselves in a manner that promotes public confidence in the integrity and reliability of the insurance industry.

9.2 Requirement

Adjusters must represent themselves and the services they provide in an honest and courteous manner.

9.3 Guidelines

9.3.1 Adjusters must hold themselves out in a manner consistent with what appears on their certificate of authority.

9.3.2 An adjuster must disclose that they are an adjuster prior to conducting adjusting activities with the public.

9.3.3 Adjusters must not make any false or misleading statements to obtain adjusting assignments.

9.4 Examples

9.4.1 An adjuster induced an individual to provide them with a statement before identifying on whose behalf they were acting.

10. DEALING WITH THE ALBERTA INSURANCE COUNCIL

10.1 Principle

Adjusters, industry and the public benefit from a degree of peer review under the Act and Regulations. This privilege requires the co-operation and support of adjusters.

10.2 Requirement

An adjuster must interact with the Alberta Insurance Council and operate within the regulatory framework described under the Act.

10.3 Guidelines

- 10.3.1 An adjuster, or former adjuster, served with a request from the Alberta Insurance Council must provide the information in accordance with the request.
- 10.3.2 An adjuster must not make a material misstatement on an application for a certificate or in response to a request from the Alberta Insurance Council.

10.4 Examples of Misconduct

- 10.4.1 Failing to reply to a request from the Alberta Insurance Council.
- 10.4.2 Making material misstatements in reply to a request from the Alberta Insurance Council.
- 10.4.3 Swearing a false affidavit advising the Alberta Insurance Council that insurance activities had not been conducted while unlicensed.
- 10.4.4 Providing false and misleading information on licensing applications to conceal not having sufficient credits to meet the continuing education requirements.

11. COMPLIANCE WITH GOVERNING LEGISLATION

11.1 Principle

Adjusters are expected to adhere to all statutory and regulatory requirements. Violations of these requirements are a violation of the Code and may subject adjusters to disciplinary action under the Act.

11.2 Requirement

An adjuster must be aware of and comply with the duties and obligations under the Act, Regulations and the Code.

11.3 Guidelines

11.3.1 An adjuster is required to understand and remain current on the applicable regulatory requirements that apply to them under the Act and Regulations. This information is readily available from a variety of sources. As necessary, the Alberta Insurance Council publishes guidelines and directives for adjusters on specific issues through its notices, bulletins, *Insight* and web site, www.abcouncil.ab.ca. Alternatively, information may be obtained by contacting one of the Alberta Insurance Council's offices.

11.3.2 An adjuster needs to be aware of all legislation which may impact their role as an adjuster.

11.4 Examples

11.4.1 An adjuster was unaware that only accredited continuing education credits could be utilized to meet his mandatory continuing education requirement.

11.4.2 An adjuster was unaware of legislative file retention requirements.