



Record Keeping and Notes in Records for Claims Adjusters

A claims adjuster's obligation to keep proper records is related to the obligation to act with competence and professional integrity, as required under section 16 of the *Act respecting the distribution of financial products and services*. Improper record keeping is also considered to be carrying on one's activities negligently, under sections 10, 15 and 58 (1) of the *Code of ethics of claims adjusters*. Finally, the contents of the record as such must comply with the requirements of section 21 of the *Regulation respecting firms, independent representatives and independent partnerships*. These legislative sources appear at the end of this document.

Claims adjusters also have obligations with respect to all notes in the record that document discussions, conversations, actions taken and advice given to claimants. Notes in the record are essential to ensuring proper follow up.

Using a **computerized document management system** or any other paperless or paper-free method of record keeping does not lessen the firm's and the claims adjuster's obligations to keep professional records and notes in the records.

THE FIRM'S OBLIGATIONS

- Keep a record for each claimant or each claim.
- Use an orderly filing system for records (ex.: claim, loss or claimant number).
- Keep records in any one of the firm's establishments that has been declared in the register of the Autorité des marchés financiers.
 - The individual documents that make up a record may each be kept in a different location or medium (format), as long as the complete record can be reassembled and made available in a timely manner.
- Store client records safely.
 - Protect **physical records** from fire or theft by having, for instance, an alarm system, fireproof filing cabinets, and fire extinguishers.
 - Protect **computerized records** from loss, destruction or falsification. Firms must therefore make back-ups of all data; control access to computers; and opt for information technology systems that make it impossible to change or erase data.



- Forbid filing notes taken on post-its or scraps of paper in a physical record. Notes taken this way should be re-transcribed properly and then placed in the record.
- Establish a system that allows the firm to identify the date at which the file was closed or the date of the last activity carried out in the record. This must be done in order to ensure compliance with the obligations concerning the minimum period for preserving records

REMINDER: Records must be kept for a minimum of five years from the date of the last transaction..

All claim files must be kept for a minimum of five years from the date of occurrence of the last of the following events:

- the final closing of the record,
- the date the last service was rendered to the claimant,
- the date the last report was submitted to the insurer that mandated the claims adjustment firm,
- the date of the final settlement of the claim, regardless of whether the insurer compensated the claimant or not.

Note: If you hear of or are notified that further damage occurred after the record was closed, or that the claim is under litigation, it is important to reopen the record and make sure that it is preserved beyond the normal period of time and up until any further developments have been settled. When in doubt, consult a superior.

INSURERS' COMPUTER SYSTEMS IMPORTANT INFORMATION FOR INDEPENDENT CLAIMS ADJUSTERS

When an independent claims adjuster mandated by an insurer uses the insurer's electronic portal, the firm's record-keeping procedures must include a section on the use of this portal, since the information obtained through a portal **does not constitute the independent claims adjuster's claim file**, but rather the insurer's file. The claims adjuster must either print out all the documents and attach them to the paper record or create a "mirror copy" of the record in the firm's computer system. Furthermore, the claim file must remain available even if the electronic link no longer functions.

Thus, the insurer's computer system must not be the only place where the independent claims adjuster's notes are kept.

THE CLAIMS ADJUSTER'S OBLIGATIONS

- Put all documents in the claimant's claim file, and record in the file all the information required under this procedure.
- Ensure that records are complete and maintained in an orderly fashion so that other claims adjuster in the firm or working for the insurer may provide follow-up and answer clients' questions, if necessary.
- Ensure that notes in the client record are legible and in order. For each note, the representative must
 - Specify the date on which it was written.
 - Include sufficient details to ensure that it is understandable, even several years later.
 - Indicate that he is the author of the note.



Note: Notes in the client record include all discussions or conversations with the claimant or a third party; information provided, in particular mandates and instructions given to service providers, and follow-up with these providers; as well as actions carried out, as explained in the section entitled “Contents of the Claim File.”

ON THE ROAD...

Much of a claims adjuster’s work may be done on the road. The claims adjuster must therefore ensure that he is equipped to take accurate, complete notes and above all, that he is able to protect the confidential information he has in his possession, no matter where he is working.

CONTENTS OF THE CLAIM FILE

The claim file should include, at a minimum:

A. Basic Information

- The claimant’s name and contact information.
- The reference number of the claim file (or the loss file).
- The date of the notice of claim.
- The location of the loss.
- The policy number and the periods of coverage, where applicable.
- The date and the nature of the loss as well as the circumstances surrounding it.
- The amount, the object and the nature of the insurance coverage, the deductible, and the limitations and exclusions.
- Explanations given to the claimant regarding the collection and communication of personal information and assignments of claim, where applicable.

B. Documents (examples, depending on the circumstances)

- The “consent for the collection and communication of personal information when making a claim” form must be completed and signed by the claimant. A form designed by the ChAD is available at chad.ca, in the Toolbox section.
- The initial statement of claim and subsequent statements.
- Statements by third parties.
- Photographs of the damaged site or property.
- A list of the claimant’s property that has been lost, damaged or put into storage. This list is sent in by the claimant or any other person who has prepared such a list.



- Quotes and estimations for the cost of work, assessments made by service providers, experts' reports as well as the contact information for individuals representing these third parties.
- All other documents concerning services rendered, for example:
 - all documents the claimant has sent in to support his claim: a list of property, photos and proofs of purchase of property, invoices for the replacement of property, invoices for maintenance, etc.;
 - a copy of the insurance policy;
 - invoices and receipts;
 - a copy of correspondence received and sent that has any bearing on the file, including faxes and e-mails.

Note: if a paper copy of the e-mails has not been made, they must be "attached" to the electronic record and not simply kept in the claims adjuster's e-mail in-box; this is required in order to ensure that the e-mails can be retrieved easily and reviewed by others, if need be.
- Any other information related to services rendered.

C. Notes in the Claim File

Notes in the file must be clear, complete, accurate, legible and understandable to the claims adjuster in charge of the record as well as to anyone else who may be asked to do any work on the record, or to those authorized under the Act to verify or consult the notes.

A note that is too short or incomplete, such as "called the insured, 10 min.", does not comply with this obligation. Thus, time sheets that are filled in for the purposes of billing the insurer do not constitute a note in the file.

Notes should be written while the events are taking place or as quickly as possible thereafter.

Furthermore, notes must be objective and include facts and **concrete** details. Opinions, hunches and impressions are certainly part of any adjuster's investigation, but they cannot be considered to be a note in the file if they are not supported by concrete evidence.

Example: instead of writing "the claimant is lying", it is preferable to write:

- "The claimant has provided contradictory versions of the events and is unable to explain the contradictions between these versions."
- "The claimant stated that he had just bought the appliances, but he did not keep any invoices and did not remember the store where he bought them."

On the other hand, notes should include, for example:

- summaries of telephone conversations or meetings with the claimant;
- details regarding requests the claimant made or information he provided;
- notes regarding information and explanations given to the claimant as well as decisions made (ex.: assignments of claim to service providers, the insurer's reservation of rights with respect to the possible inadmissibility of a claim, etc.);



- summaries of telephone conversations or meetings with other representatives, claims adjusters, and other parties to the file, in particular service providers mandated by the claims adjuster;
- recordings of telephone conversations, where applicable;
- summaries of any action or steps taken by the claims adjuster or other employees or claims adjusters involved in the file, instructions given and service providers' reports.

IMPORTANT: EXTERNAL SERVICE PROVIDERS (AFTER THE LOSS)

Section 21 of the *Code of ethics of claims adjusters* goes to the heart of the role of the claims adjuster. It reads as follows:

“Claims adjusters must provide the insured with the explanations necessary for them to understand the settlement of the claim and services rendered to them.”

The claims adjuster must therefore record in the file the work carried out and the services rendered for the purposes of settling the claim in order to be able to provide any required explanations and refer to information in the file as needed.

Furthermore, using external service providers must never result in the claims adjuster losing control of the file. He must always know how the work is proceeding, what the status of the claim is and what costs have been incurred. Complete notes enable the adjuster to prove exactly what has been done and said.

LEGISLATIVE SOURCES

The obligation to keep client records properly is related to the obligation to act with competence and professional integrity, as required under section 16 of the ***Act respecting the distribution of financial products and services***:

16. *All representatives are bound to act with honesty and loyalty in their dealings with clients. They must act with competence and professional integrity.*

Improper record keeping is also considered to be carrying on one's activities negligently, pursuant to sections 10, 15 and 58(1) of the ***Code of ethics of claims adjusters***:

10. *Claims adjusters must not neglect professional duties relating to their professional activities and must carry out such duties with integrity.*
15. *The conduct of claims adjusters must be characterized by objectivity, discretion, moderation and dignity.*
58. *Acts by claims adjusters that are contrary to the honour and dignity of the profession constitute a breach of the Code of ethics, including:*
- 1° carrying on their professional activities dishonestly or negligently.*

Finally, the contents of the record as such must comply with the requirements of the ***Regulation respecting firms, independent representatives and independent partnerships*** (D-9.2, r.2 no. 9).