



# **— GOOD PRACTICE GUIDELINES FOR INSURANCE INVESTIGATION**

## Table of contents

<b>1 Purpose of insurance investigation.....</b>	<b>2</b>
<b>2 Investigating staff .....</b>	<b>2</b>
<b>3 General principles governing insurance investigation .....</b>	<b>2</b>
<b>4 Investigation procedures.....</b>	<b>3</b>
4.1 Interviewing the policyholder .....	3
4.2 Inspection of the scene of event .....	4
4.3 Information acquired by technical means .....	4
4.4 Information acquired from social media .....	4
<b>5 Disclosure of information to other insurers.....</b>	<b>5</b>
<b>6 Disclosure of information to authorities .....</b>	<b>5</b>
6.1 Law enforcement and prosecuting authorities .....	5
6.2 Customs .....	6
6.3 Debt recovery authorities.....	6
6.4 Tax authorities.....	6
<b>7 Other provisions .....</b>	<b>6</b>

## Good practice guidelines for insurance investigation

### 1 Purpose of insurance investigation

Insurance frauds and financial crimes cause significant losses to Finnish insurers and their policyholders. Against this background, policyholders must be able to rely on the fact that insurers prevent and investigate insurance fraud and other similar abuses with efficiency and limit the losses that may be incurred by policyholders as a result of fraudulent claims. In the context of these guidelines, insurance investigation refers to the investigation of suspected insurance fraud.

Fraud and abuse prevention is part of insurers' social responsibility. Insurers shall in the course of their work devise ways to reduce opportunities to commit fraud against them and to detect and investigate any detected fraud and, where needed, report the detected fraud to authorities.

Insurers' own investigation operations scheme is a major vehicle for deterring insurance fraud, as the scheme

- prevents attempted fraud against insurance companies through increased risk of being caught;
- reduces the amount of financial benefit gained by the fraudster, which makes it less tempting to commit fraud;
- provides information on how insurers' products, policy conditions, work processes and other working methods should be upgraded to reduce opportunities of committing criminal offences; and
- provides insurers with tools to assess claims with justness and to decide on whether an investigation request is filed to the police for initiation of pre-trial investigation.

The objective of these guidelines is to describe the content of good practice in insurance investigation and thereby make sure that no one is suspected of fraud without reason. Moreover, the aim is to advance compliance with generally accepted and ethically sustainable principles in insurance investigation.

### 2 Investigating staff

Insurance investigation is conducted by insurance investigators who have been specifically appointed for the purpose and who use both in-house and outside specialist resources in their work. Insurance investigators shall have either police training or other such training and experience as is needed for the task.

Besides insurance investigation, insurance investigators engage in other activities which are not governed by these guidelines.

### 3 General principles governing insurance investigation

The objective of insurance investigation is to find out what has actually happened. All circumstances detected in the investigation, whether positive or negative for the parties involved, shall be taken into account with equal weight.

The methods used for the investigation and for gathering information to reach the mentioned objective shall be in reasonable proportion to both the nature and the extent of the case at hand.

What needs to be taken into account in insurance investigation is that the parties to an insurance contract are not to be seen as opponents of each other. The claimant or the

claimant's representative shall be reserved an opportunity to be heard in the case. This practice may be deviated from for investigative reasons.

Another thing that needs to be taken into account is the claimant's situation and circumstances such as health, age, experience and education, language skills and other personal qualities which may have an impact on the person's chances of influencing the processing of the case.

No investigation may unduly weaken the position of the party entitled to compensation or benefit. Sometimes insurance investigation may result in a finding that there is no reason to suspect any party of fraud or of any other improper action. At other times investigation may reveal that no compensable damage or loss or injury has occurred or that the occurrence has not been proved but there are not sufficient grounds to file an investigation request to the police. In such cases, insurers shall deny the claim without undue delay, specifying the reasons for the denial. No investigation may unduly delay the processing of the underlying claim at the insurance company.

Every investigation shall take account of privacy protection, notably provisions of the Personal Data Act, in the processing of personal data. Another thing that needs to be observed is provisions on domestic peace and other objects of legal protection ensured by the constitution.

## 4 Investigation procedures

Insurance investigators first acquire information, then analyse the data and document it. Insurance investigation provides both the insurer and law enforcement authorities with information important for investigating the fraud and supports pre-trial investigation, where needed.

In the context of these guidelines, law enforcement authorities refer to the police, the customs and the border guard. In its role as the complainant in the cases involved, the insurer has an independent right to investigate and bring charges for crime committed against itself.

Insurance investigators have the right to get information on the circumstances that impacted the conclusion of the insurance contract concerned, and on the occurrence of the insured event, from the policyholder, the policyholder's representative or any other party that is entitled to compensation or benefits, as provided in the Insurance Contracts Act, policy conditions or elsewhere.

### 4.1 Interviewing the policyholder

The investigator may interview the policyholder, any other party entitled to compensation or benefit, or any other person that knows about the occurrence of the insured event. The interviewee shall be informed in advance of such an interview. This practice may be deviated from for investigative reasons.

The interview shall be conducted with pertinence and with due consideration of not only the person's circumstances but also the nature and extent of occurrence of the insured event as well as any other circumstances that may be important for the investigation. If necessary, an interpreter may be used. The interview may be recorded by technical means or in writing. According to the Personal Data Act, the interviewee has the right to access any information recorded about the interview and attached to the claim documentation. Where needed, the document may be signed by both the interviewee and the interviewer.

## 4.2 Inspection of the scene of event

Before inspecting the scene of the accident or another occurrence of an insured event, it is advisable to notify the person involved or the person whose premises will be inspected. The owner or occupant of the premises shall, where required, be reserved an opportunity to be present at the inspection. These practices may be deviated from for investigative reasons.

When inspecting the scene and recording anything about the inspection, the investigator shall always take account of what is provided in legislation about breach of domestic peace.

## 4.3 Information acquired by technical means

Acquiring information by technical means poses a sensitive issue from the perspective of the privacy of the persons involved. That is why the need for this kind of information shall be justified and in any case it is expedient to keep the volume of such information at a low level. Yet in some cases, information acquired by technical means may provide evidence crucial to the investigation of the event. Against this backdrop, it is sometimes well founded to use technical means for intelligence purposes.

Insurance investigators have to take account of the provisions of chapter 24 of the Penal Code regarding wiretapping, illicit observation and breach of domestic peace.

For this reason, no person engaging in insurance investigation may ever

- use a technical device to listen to or record any discussion, talk or other sounds of private life, where these are not intended for his/her knowledge and which arise in domestic premises;
- use a technical device to eavesdrop or record any talk even outside domestic premises that is not intended for his/her or any other third party's knowledge under circumstances where the speaker has no reason to believe that a third party is hearing;
- use a technical device to watch or monitor any person in domestic premises or in a toilet, dressing room or other similar place; or
- use a technical device to watch or monitor any person in an office, business premises, production facility, meeting place or fenced yard that is closed to the public where this violates the person's privacy.

Technical devices may be used for getting and recording information on persons who are in public locations. These include

- a. roads, streets, squares, parks, beaches, sports grounds, water areas, graveyards, and other locations that are available to the public;
- b. buildings, public transport vehicles and other similar locations such as bureaus, offices, stations, shopping centres, business premises and restaurants, which are available to the public during an event or otherwise.

These are places or spaces freely available to the public and places where people are expected according to general life experience to be prepared for being observed by others. When a person moves from a public location to domestic premises, recording of information with a technical device shall be suspended.

## 4.4 Information acquired from social media

During insurance investigation it is possible to acquire information from open and public sources such as the internet. Information acquired in this manner can be used to aid and direct the investigations. Its correctness shall be verified through the means available. The

information can be used in decision-making during claims handling, but the decision shall not be solely based on information acquired from social media.

## 5 Disclosure of information to other insurers

All employees of insurance companies are subject to the duty of confidentiality which may be waived only if another piece of legislation so provides or if the customer concerned has specifically consented to disclosure of confidential information. Yet insurance companies are legally entitled<sup>1</sup> to disclose confidential information on fraud committed against them and on claims reported to them to other insurance companies in order to promote a major interest important for deterring insurance fraud as determined in more detail by the Data Protection Board under subsection 3 of section 43 of the Data Protection Act.

Disclosure of information on claims reported to insurers and processing of such disclosed information are permitted as provided in the decision made by the Data Protection Board on the Claims Register and in the Code of Conduct applied to the Claims Register.

Disclosure of information on fraud committed against insurers and processing of such disclosed information are permitted as provided in the decision made by the Data Protection Board on the Fraudulent Claims Register. If an insurer has reported a fraud committed against it to the police or if a person has been convicted of fraud against an insurer, information on the person committing such fraud may be recorded in the Fraudulent Claims Register.

## 6 Disclosure of information to authorities

### 6.1 Law enforcement and prosecuting authorities

According to item 8 of subsection 1 of section 3 of chapter 30 of the Insurance Companies Act, insurance companies are entitled to disclose confidential information to prosecuting authorities and to law enforcement authorities for the prevention and investigation of fraud. Information on health, however, may only be disclosed to prosecuting and law enforcement authorities for the prevention, investigation and prosecution of fraud against an insurer or an authorised pension provider.

This provision means that information may be disclosed

- for preventing fraud; and
- for investigating fraud already committed as part of pre-trial investigations, consideration of charges, or during processing of the case.

Information on health, however, may only be disclosed in connection with fraud committed against an insurer or an authorised pension provider.

According to section 36 of the Police Act, the police are entitled, at the request of the commanding police officer, to get any confidential information needed to prevent or investigate an offence.

The police have an equal entitlement to get any information needed for police investigation of the kind referred to in section 37 of the Police Act, if this is called for by a public or private interest of importance. Police investigation of the kind referred to in section 37

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<sup>1</sup> Insurance Companies Act S.30(3)  
Act on Foreign Insurance Companies S.79  
Act on Insurance Associations S.16(10)



means investigation conducted for a reason other than offence, such as investigation of the cause of death or workplace accident or other investigation assigned to the police in legislation.

It is advisable to document all information requests received from the police. The requested information is usually given in writing. In urgent cases, information may be given on the basis of requests received over the telephone. In such cases, information may also be given over the telephone.

Insurance investigators shall work in cooperation with the police if an investigation request has been or will be filed for the case under scrutiny. Any circumstances of importance arising in relation to the case during pre-trial investigations, consideration of charges, or court processing shall be reported to the police or to the prosecutor.

## **6.2 Customs**

Pursuant to subsection 2 of section 28 of the Customs Act, the Customs has the same rights to get information from insurance companies as those granted in the above mentioned provisions. Disclosure of information to the customs is made as described above.

## **6.3 Debt recovery authorities**

Under sections 64, 65 and 66 of chapter 3 of the Enforcement Code, debt recovery authorities are entitled to access information from insurers that would otherwise be confidential, for the purpose of determining the financial standing of the debtor. Under subsection 3 of section 66 of chapter 3 of the Enforcement Code, disclosure of information to debt recovery authorities may not be revealed to any party other than authorities.

## **6.4 Tax authorities**

Under section 19 of the Taxation Procedures Act, tax authorities have the right to access confidential information from insurers.

Such confidential information may consist of a name, bank account number, transaction details or other similar data that identifies the person and that may be needed for the processing of another case involving the taxpayer's taxation or appeal and which is either available in the documentation possessed by the insurer or otherwise known to the insurer, unless the insurer's representative has the right to refuse to witness on the case.

Even so, no insurer may refuse to disclose any such information on a person's financial standing as has an impact on the person's taxation.

As to disclosure of information to parties other than the above mentioned authorities on a case that is subject to the duty of confidentiality, insurers shall find out whether any specific piece of legislation grants a right or imposes an obligation to disclose such information.

## **7 Other provisions**

Where needed, insurance investigators shall on their own initiative provide reliable evidence of their identity to the person involved and to any other persons to be heard in the case and explain the provisions, contractual terms or other circumstances that regulate insurance investigators' operations.

Insurance investigators shall behave in their work in such a manner that the reputation and esteem enjoyed by the insurance industry and insurance investigators will not suffer.



Insurance investigators shall on their own initiative inform their superiors of any financial interests or other circumstances that may either have an effect on the objectivity of the investigation conducted by them or cause doubt about the objectivity of the investigation. Such information is to be given before the interest is created or before the commencement of an investigation that may involve a conflict of interests.





  
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