

Questions from the Association of British Insurers on the template for provision of information required under the Civil Liability Act 2018.

The following questions/comments were provided by the Association of British Insurers after reviewing a draft of the template. An FCA response is provided to each question/comment.

Questions

- Where there are several claimants (injured parties) under a single claim event, should these be recorded as separate claims for the purposes of these definitions? It is worth clarifying if “claim” = incident (with potentially multiple claimants); or = claimant.

FCA Response: Now clarified in Notes that claim = incident.

- How is the adjustment for inflation to be carried out – i.e. what is the base period to which insurers should adjust?

FCA Response: Now specified in Instructions and Glossary that base period is the first year of data collection.

- Question 2a and f / 4a and f: What definition of “settled” should be used? We assume it means that no reserve is left outstanding on the claim, but it would be helpful to clarify in the guidance.

FCA Response: Now clarified in Notes as no reserves outstanding.

- Question 2a and f / 4a and f: How should insurers treat PPOs as “settled” – when agreed in court or another way? We would expect this to mean when it is agreed in court, but it could be interpreted to mean when the claimant has died and no more payments are being made.

FCA Response: Now clarified in Notes as when agreed in court.

- Question 2a and f / 4a and f: Do the claims amounts reported under questions 2a) and 4a) relate only to the injury elements of the claim, and exclude property damage costs etc., and exclude legal costs (which are covered in 2b and 4b)?

FCA Response: Now clarified in Notes that property damage costs are excluded.

- Question 2a and f / 4a and f: Does this exclude legal costs? 2 (e) suggests it excludes these costs which gives rise to a concern that insurers may interpret the spend in this section differently. If legal costs are not part of the overall definition of a personal injury cost, should investigation costs and others be included/excluded?

FCA Response: Further clarification given in Instructions and Glossary sheet.

- Question 2a and f / 4a and f: It would be helpful to clarify whether this is meant to be claims both reported and settled in the year we are reporting on, or just claims settled in the reporting year (which could have been open from a prior period)?

FCA Response: Now clarified in Notes that it should be Settled in year – reported date not relevant.

- Question 2a / 4a: Is this where the settled for all claims totals over £100k, or is this where the individual settled amount on each of the claims is over £100k?

FCA Response: Question adjusted to make clear that it is Individual claims over £100,000.

- Question 2a and f / 4a and f: The definitions refer to claims more than £100,000, and claims less than £100,000. Where should claims of exactly £100,000 be allocated?

FCA Response: Wording of questions changed to clarify.

- Question 2b / 4b: Do the legal costs reported relate to both third party legal fees and the insurer's own legal fees? And is the definition of "that a firm would record on its systems to be included in the Ultimate Gross amount recorded for each claim" supposed to indicate that it is only allocated costs that should be reported – i.e. no apportionment of legal overhead costs?

FCA Response: Definition of legal costs in Instructions and Glossary now makes clear that centrally recorded legal costs should not be included

- Question 2b / 4b: Does this include disbursements, VAT, and insurers' own solicitors' fees where a case goes to court?

FCA Response: Now clarified in Instructions and Glossary.

- Question 2c / 4c: Does this mean recoveries that the insurer has actually been paid; or expects to make (i.e. paid or incurred)?

FCA Response: Now clarified in Notes that expected recoveries should be included.

- Question 2k / 4k: Should the Gross Written Premium paid by the customer include IPT?

FCA Response: Now clarified in Instructions and Glossary

Observations / comments

- 1) It would be preferable to add the additional (voluntary) reporting period to the template to enable insurers to provide figures that illustrate how claimant behaviour (frequency & severity) may have changed since the announcement of the reforms and before the reporting period.

FCA Response: A column now included for firms to complete on a voluntary basis.

- 2) It would be helpful to clarify whether the definition of "private motor insurance policy" excludes policies sold to a private individual but which might include an element of business use. We would further expect policies which cover commuting to be included – the reference to "Social, Domestic & Pleasure", rather than "SDP + Commuting" might lead to inconsistencies.

FCA Response: Definition in Instructions and Glossary now amended to include commuting.

- 3) There is a mismatch between collecting claims data on a settled basis and premium data on an actual year basis – particularly on large claims where the lifecycle is often multiple years.

FCA Response: The statement makes clear that the questions are for data as specified by the Act.

- 4) Gross premium: we assume that this will be for the policy being sold and not include any add-ons (it would be worth clarifying in accompanying guidance to avoid inconsistent reporting).

FCA Response: Definition in Instructions and Glossary amended to exclude add-ons.

- 5) Inflation: CPI has very little correlation with the cost of settling third-party personal injury claims. If CPI has to be used then guidance into how to balance changes in how this measure is calculated would be helpful. Wage inflation is probably a better metric to use – but even then it would not entirely correlate to changes in TPI costs.

FCA Response: CPI is specified in the Regulations.

- 6) It may be worth considering a cut-off in terms of age of claims for any claims under £100,000 as the CLA / whiplash reforms will only apply to accidents after a certain date (April 2021). –

FCA Response: The Act or Regulations do not allow for this.

- 7) Question 4a / 4f: where there is a claimant with a whiplash-type injury that falls under the definition of the Civil Liability Act, then by definition the price at which the General Damage element of the claim settles (for the whiplash injury itself) should be different (lower). However, if a second / third site minor injury is sustained at the same time, then how these settle in the future may have a corresponding reversal effect.

FCA Response: This is not covered by the Act or Regulations but firms may wish to include such matters in their response to Q6b.

- 8) Some insurers may allocate certain costs, like legal costs, centrally rather than at specific claim level. So, this is an area where a less granular approach may be helpful. – we are looking for how claims costs to the firm change.

FCA Response: Instructions and Glossary have been amended to provide clarification on the basis that the Act/Regulations refer to individual claims.

- 9) We have received a few queries regarding the auditing requirements – I appreciate that the definitions are set out in the CLA (which cross-references other legislation) but it would be helpful to add this to the guidance.

FCA Response: Definitions of relevant auditor now added to Instructions and Glossary.