

# Guideline

## Home Warranty Claims and Complaints Management

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### INTRODUCTION

BCFSA uses Guidelines to communicate regulatory expectations to insurers authorized to conduct business in British Columbia (“B.C.”).

This Guideline outlines expectations for all home warranty insurance providers (“Home Warranty Insurers”) regarding the management of claims and complaints.

This document provides home warranty insurers with flexibility to implement BCFSA’s expectations in a risk-based and proportionate manner given differences in size, scope, and complexity. BCFSA will evaluate the conduct of home warranty insurers against these expectations when assessing compliance with legislative and regulatory requirements.

### BACKGROUND INFORMATION

See [Appendix A](#) for background on home warranty insurance, previous BCFSA regulatory communications, and the results of recent examinations.

BCFSA conducted examinations in cooperation with the Alberta Superintendent of Insurance, which resulted in findings that insurer claims and complaints handling breached Section 244 of the *Financial Institutions Act* (“FIA”). More specifically, the claims and complaints handling

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practices “might reasonably be expected to harm the interests of insureds” through a lack of timely and complete responses to policyholders.

## REGULATORY EXPECTATIONS

In response to ongoing claims and complaints handling issues, BCFSa is providing regulatory expectations to home warranty insurers.

In determining whether expectations have been met, BCFSa will consider the size, scope, and complexity of the insurer.

Failure to demonstrate responsiveness to BCFSa’s expectations may result in regulatory action under the *FIA*.

### I. Management Oversight

Managerial oversight activities are actions taken by management to review and monitor an organization’s operations to ensure it achieves expected results and complies with established law, regulation, and policies.

For home warranty insurers, the effective management oversight of claims and complaints processes is essential to ensure fair treatment of homeowners. Responsibility rests with the home warranty insurer’s board of directors and senior management to ensure that effective policies and procedures are developed and that monitoring to ensure compliance with those directives is in place.

BCFSa expects home warranty insurers to:

#### Develop policy and procedures

- Develop comprehensive claims and complaints policies and procedures that clearly demonstrate commitment to fair treatment of homeowners and ensure that home warranty is treated as a contract of first resort rather than a surety<sup>1</sup>; and
- Ensure there is a process that prompts management’s review and update of policies and procedures on a regular basis.

#### Ensure compliance

- Ensure that staff consistently adhere to policies and procedures in place; and
- Undertake regular staff training, periodic management audits or reviews of claim and complaint files, and appropriately manage instances of non-compliance with policies and procedures.

#### Oversee outsourced functions

- Monitor third-party compliance with the home warranty insurer’s policies and procedures on an ongoing basis.

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<sup>1</sup> "Surety insurance" means insurance under which an insurer undertakes (a) to guarantee the due performance of a contract or undertaking, or (b) to pay a penalty or indemnity for any default in the performance of a contract or undertaking;

### Show management's involvement

- Demonstrate appropriate management involvement in significant decisions on claim and complaint files; and
- Establish a regular review process for open claim and complaint files that have been inactive for a time period specified by the home warranty insurer. Management's review should identify the cause(s) for the delay and assist in timely resolution.

### Monitor trend analysis

- Establish a systematic process that supports management analysis of trends and recurring risks in the complaints handling process.

## **II. Claims and Complaints Handling Policies and Procedures**

Documented claims and complaints handling policies and procedures support the fair treatment of homeowners by enabling consistent procedural outcomes, decision-making, and oversight.

BCFSA expects home warranty insurers to:

### Ensure policy effectiveness and updates

- Ensure that policies and procedures are implemented by:
  - Designating a staff member responsible for implementing policies and procedures;
  - Designating one or more staff member(s) who are responsible for receiving and dealing with complaints; and
  - Training staff that are involved in claims and complaints resolution to ensure they are familiar with the policies and procedures, including any updates;
- Review claims and complaints handling policies, procedures, protocols, and templates on a regular basis to ensure materials are up-to-date and reflect management expectations; and
- Communicate any changes to staff in a timely manner.

### Ensure documentation standards

- Establish standards for claims and complaints documentation that ensure timely and complete information is available upon which to make decisions.

### Establish process for complex files

- Establish a formal process for the escalation of complex files that require management involvement.

### Ensure transparency

- Establish standards that ensure communication with homeowners is in plain language, complete, and timely and equip homeowners to make informed decisions; Communication may be in verbal, written, formal, or using informal formats and complete records of the communications should be kept on file;
- Ensure claims and complaints handling processes and procedures are available to homeowners in a clear, plain language, including through the home warranty insurer's website and other appropriate avenues where products and services are offered; and
- Provide homeowners with all the necessary information related to filing a complaint and a dispute resolution process, including:
  - Information on how to contact the complaints handling department if a homeowner's claim has not been handled to their satisfaction,
  - Information on how to contact the home warranty insurer's internal ombudsperson,

- Expected timeline of when a homeowner can anticipate a response after submitting a complaint, and
- Clear, transparent, and easy to understand information in the home warranty insurer's final position letter about impartial dispute resolution procedures, including the option of escalation to the General Insurance OmbudService.

### III. Claims and Complaints File Maintenance

To effectively manage claims and complaints processes, home warranty insurers should maintain an up-to-date file for each claim or complaint, including measures taken for their resolution. Effectively managing these records allows staff to respond appropriately to a claim, complaint, or inquiry by enabling key information to be available and accessible in a timely fashion.

BCFSA expects home warranty insurers to:

- Ensure that claim and complaint files contain all correspondence, documents, notes and records of interactions with homeowners, as well as any other relevant records;
- Ensure that claim and complaint files are updated in a timely manner;
- Ensure that claim and complaint files are stored securely and in a manner that enables access to all relevant information in a timely manner; and
- Establish policies and procedures that govern how information can be used and disclosed

Home warranty insurers should ensure that information is handled in a manner that complies with legal requirements and with BCFSA's [Information Security Guideline](#), where applicable, as well as any other relevant guidance, and recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances.

### CONTACT

Questions about this Guideline can be directed to [insurance@bcfsa.ca](mailto:insurance@bcfsa.ca).

## APPENDIX A - OUTCOME OF BCFSA EXAMINATIONS ON HOME WARRANTY CLAIMS AND COMPLAINTS MANAGEMENT

### Introduction

Section 141 of the *Insurance Act* defines home warranty insurance as a contract of insurance covering defects in the construction of a new home or renovation, and consequential losses or costs incurred by the owner.

The [Homeowner Protection Act](#) (“HPA”) and HPA Regulations require that new homes built in B.C. by licensed residential builders must be covered by mandatory, third-party home warranty insurance. The Licensing and Consumer Services Branch of BC Housing administers the HPA and regulates licensed residential builders to ensure they arrange for warranty insurance as required by the HPA. It applies to all new homes constructed under building permits applied for on or after July 1, 1999 (or where construction started on or after July 1, 1999, in areas not requiring building permits), unless they are specifically excluded by the HPA or HPA Regulations.

At a minimum, home warranty insurance coverage includes:

- Two years on labour and materials (some limits apply);
- Five years on the building envelope, including water penetration; and
- Ten years on the structure of the home.

The warranty is attached to the home, not to the owner of the home, and remains in effect upon the re-sale of the home until the coverage expires.

The HPA and Regulations provide several exemptions from the licensing and home warranty insurance requirements. It also exempts a number of classes of new homes from the requirements for home warranty insurance, registration fees, builder licensing and others.

### Background

In response to escalating numbers of complaints related to home warranty insurance, BCFSA (then operating as the Financial Institutions Commission) issued [Advisory Letter #0881](#) dated January 13, 2016 (the “Advisory Letter”), to insurers authorized to offer home warranty insurance in B.C.

The Advisory Letter:

- 1) Sets out expectations regarding treatment of home warranty insurance as a contract of first resort, not a surety in which the insurer is only obligated to pay if the builder becomes insolvent or refuses to remedy the warrantable defects;
- 2) States that if the builder does not complete the repairs in a timely manner, BCFSA expects the insurer to arrange for repairs to be completed by another qualified party; and
- 3) States legislative requirements set out in the HPA Regulation, Schedule 2 Condition 3, regarding handling of home warranty insurance claims in a timely manner.

Following the issuance of the Advisory Letter, BCFSA monitored complaints received relating to the home warranty insurance industry. An increase in the volume of home warranty insurance complaints between 2016 and 2020 prompted BCFSA to conduct a series of reviews of the claims and complaints handling practices among home warranty insurers.

These reviews aimed to determine whether insurers treated homeowners fairly when managing claims and complaints. To assist with these reviews, BCFSA assessed whether home warranty insurers complied with the following:

- the *FIA*;
- HPA and HPA Regulation; and
- the Advisory Letter.

In its assessment, BCFSA also considered principles contained in the International Association of Insurance Supervisors Insurance Core Principles and the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations *Guidance Conduct of Insurance Business and Fair Treatment of Customers*:

- Governance and corporate culture;
- Conduct of business;
- Relationships between insurers and intermediaries;
- Outsourcing;
- Claims handling and settlement; and
- Complaints handling and dispute resolution.

Copies of the [voluntary compliance agreements](#) resulting from the examinations can be found on BCFSA's website.

## Examination Findings

BCFSA examinations of home warranty insurers' processes and practices identified the following common weaknesses:

### 1. *Management Oversight*

BCFSA found that management established some controls to monitor claims and complaints processes. However, there were key controls that were either not established or were not effective. For example, BCFSA noted:

- Insufficient oversight by management of claims and complaints to ensure their timely and fair processing;
- Lack of, or weak, systematic analysis of claims and complaints handling data to identify trends and mitigate risks that could hinder fair treatment of claimants; and
- Lack of periodic management reviews to ensure policies and procedures are implemented and consistently followed by staff.

### 2. *Claims and Complaints Handling Policies and Procedures*

BCFSA found that home warranty insurers had some claims and complaints handling policies and procedures in place. However, these policies and procedures were not comprehensive and lacked formalized expectations, instructions, and templates. For example, BCFSA noted:

- Outdated claims and complaints handling procedural protocols, including critical templates;
- Lack of documented important claims and complaints handling steps and timelines;

- Lack of documented requirements for management’s involvement and guidance in complex claim and complaint files;
- Inadequate claim response letters issued to claimants, including incomplete explanations for denied claim items and using difficult to understand language; and
- Inadequate disclosure of information to policyholders on the dispute resolution processes.

### 3. *Claims and Complaints File Maintenance*

BCFSA found that home warranty insurers retained claim and complaint files. However, these files were not always stored appropriately or kept up-to-date, and some files were missing important information. For example, BCFSA noted:

- Incomplete, outdated, or inaccurate internal documentation of daily activities;
- Missing, incomplete or unclearly recorded information, including correspondence and documents; and
- Ineffective monitoring of claims due to decentralized records management system.

## Conclusion

BCFSA’s examinations of home warranty insurers’ claims and complaints handling processes, along with information from complaints and enquiries received by BCFSA from the public, identified that some policyholders faced challenges obtaining timely and quality repairs related to their claims. BCFSA’s work identified three areas where home warranty insurers should strengthen their processes and practices:

- ✓ **Management’s oversight of claims and complaints handling.** Development of formal processes, ongoing file monitoring, periodic management audits, trend identification and analysis, along with staff training to help ensure that policies and procedures are followed, and management has sufficient understanding and oversight over the process.
- ✓ **Policies and procedures.** Development of comprehensive, documented claims and complaints handling policies, procedures and associated templates to help ensure consistent treatment of customers throughout the claims or complaints process. These documents need to be regularly reviewed and updated by management, and form part of a transparent claims or complaints process, meaning they are accessible, easy to understand, and readily available for customers.
- ✓ **File Maintenance.** Development of a secure centralized location and maintenance of complete, up-to-date, easy to access records with due regard for customer privacy and information security considerations to help ensure timely and appropriate response to a claim, complaint, or inquiry.