

Guiding principles for the
handling of civil claims
involving allegations of
sexual and physical abuse


ecclesiastical

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THE PURPOSE OF OUR GUIDING PRINCIPLES

- To identify and document the fundamental principles that, as a licensed insurance company, Ecclesiastical adopts and implements when handling civil actions brought against its policyholders where such civil actions include allegations of sexual or physical abuse.
- To help policyholders understand the principles Ecclesiastical adheres to when handling such claims as the insurer of the defendant organization.
- To help policyholders understand what actions they can take without such actions prejudicing their insurance position.
- To help victims and survivors of sexual or physical abuse who decide to bring a civil action against a policyholder of Ecclesiastical understand the principles that Ecclesiastical applies when handling civil actions for compensation.

APPLICABILITY & SCOPE

Ecclesiastical will apply the principles set out in this document to all civil claims against an insured policyholder where the civil action includes allegations that sexual or physical abuse has taken place.

Sexual abuse includes any action by a perpetrator that sexualizes the claimant. Such actions may be a one-time incident but, in many cases, may constitute multiple events of abuse. Physical abuse includes any physical act or the threat thereof by a perpetrator against a claimant.

These guiding principles apply to all Canadian jurisdictions, subject to the laws governing a claim.

These guiding principles apply where Ecclesiastical is the only defendant insurer concerned. This document cannot comment on the policy position or principles of claims handling adopted by other insurance companies.

Additionally, each case will be considered on an individual basis with a view to fairness to all parties and will apply the appropriate insurance and contractual provisions in place at the relevant time.

REVIEW

Ecclesiastical undertakes a continuing assessment of its claims handling policies and procedures of which this document forms a part. Ecclesiastical may review, amend and update this document from time to time without notice.

Feedback on these guiding principles and/or Ecclesiastical's claims process

Ecclesiastical welcomes feedback from any individual or organisation that wishes to comment upon the claims process they have experienced. Any such feedback should be sent in writing to:

Senior Vice President Claims Experience
Ecclesiastical Insurance Office plc,
2200-100 Wellington St W
TD West Tower, PO Box 307
Toronto, ON M5K 1K2

Or use our contact form at ecclesiastical.ca/contact-us/send-us-a-message.

All feedback received will be duly considered as part of Ecclesiastical's continuing review of claims handling best practices and will always be treated with the utmost confidentiality.

PROCESS OVERVIEW

The main parties involved in the claims process are:

- The claimant/plaintiff - the victim or survivor of abuse who is making the claim.
- The defendant - the insured or policy-holding organisation with potential liability for the actions of its employee(s) or volunteer(s) who are accused of perpetrating the abuse.
- Other defendants – other parties named in the lawsuit who may have potential liability.

In all Canadian provinces, both claimants and defendants are obliged to act in certain ways by the provisions of the Rules of Civil Court Procedures.

To fail to comply with the provisions of the Rules of Civil Court Procedures allows the aggrieved party to bring such behaviour to the attention of the court in litigation and, if accepted by the judge, can lead to penalties. The following can thus be expected from the claims process:

- The claimant, through their lawyer, must issue a Statement of Claim to the proposed defendant. The Statement of Claim should include:
 - A chronology of the alleged abuse so that the defendant can quickly establish the period of injury.
 - The allegation of where fault lies with specific details as to who the alleged abuser is.
 - The claimant's present medical condition, details of the injury sustained and the financial loss that has been incurred (in general terms).

- Upon serving the Statement of Claim the defendant or their insurer has 20 days to file a Statement of Defence. Additional time may be available if a policyholder is served in another jurisdiction (i.e. province or country).
- A Statement of Claim must be passed by policyholders to Ecclesiastical immediately because it is a policy condition of liability insurance cover that if a claim is made against a policyholder, the insurer has the right to take over the conduct of any claim in the insured's name and generally does so. This includes full discretion for the insurer to negotiate, agree or defend the settlement of claims.

Ecclesiastical will, therefore, take over the conduct of the formal civil claim from the policyholder (acting in the policyholder's name) and it is therefore vital that Ecclesiastical has time to act within the prescribed timelines.

Cases of abuse are often complex, and sometimes extra time is needed beyond the 20 days to respond. It is Ecclesiastical's experience that most claimant legal counsel will extend the time period to file a Statement of Defence so long as they are kept informed of progress and there are legitimate reasons why extra time is needed.

When Ecclesiastical receives a Statement of Claim from a policyholder that includes an allegation of abuse, it is handed over to Ecclesiastical's specialist physical and sexual abuse claims handling team. Ecclesiastical will first ascertain that insurance coverage is in place for the policyholder. Assuming coverage is in place, the claim will be allocated to the claims specialist. The claims specialist will investigate the claim and, in doing so, will need to:

Be careful to ensure that Ecclesiastical's actions in relation to the civil claim do not impinge or compromise any criminal investigation.

The abuser will have been identified in the Statement of Claim. Ecclesiastical will then need to consider whether the insured policyholder may be held liable for the actions of the abuser. That will involve consideration of the link between the abuser and the insured policyholder, and the insurance coverage provided.

Where there has been a criminal conviction, and it appears that the policyholder could be found liable, it may be in everyone's interest for an early admission of liability to be made. Early admission of liability usually hastens the claims process for the claimant.

To be able to assess the financial value of the civil claim, Ecclesiastical will need to receive medical evidence and other expert evidence to fully understand the impact of the abuse upon the claimant. In certain cases, the lack of expert medical evidence will not prevent Ecclesiastical from making an early settlement offer if Ecclesiastical is able to value the claim before such evidence is obtained.

Where policyholder liability appears to be engaged and Ecclesiastical has been able to assess the financial value of the claim, Ecclesiastical will usually make an offer to settle the claim. Ecclesiastical may propose mediation with the claimant and their lawyers or the jurisdiction

may have a mandatory mediation process that must be followed. A mediation process is a meeting involving a mediator where the claimant's and the defendant's representatives try to secure an acceptable settlement with the intention of resolving the claim as soon as possible. Ecclesiastical may agree, as part of the settlement, to include an amount for ongoing counselling. If an acceptable settlement cannot be reached, the Civil Court Procedure process will continue.

ECCLESIASTICAL'S PRINCIPLES OF CLAIMS HANDLING

Claims arising from physical and sexual abuse can be challenging and traumatic for all concerned, regardless of how long ago the abuse occurred.

Ecclesiastical supports an approach by policyholders as set out below:

→ **Policyholders should respond constructively from the outset (including before a civil claim is made)**

We believe the response given by policyholders to claimants should not be done in such a way that it is experienced as negative, resistant or unhelpful because this can create relationship difficulties and may worsen the claimant's wellbeing.

→ **Our commitment to empathetic claims investigation**

Ecclesiastical will approach any claim investigation with sensitivity, empathy and integrity. Each case will be considered carefully and individually, recognising that it is in everyone's interest and wellbeing to conclude matters as soon as possible.

→ **Our commitment to fairness in the claims process**

Ecclesiastical is committed to acting fairly towards all parties who are affected by the claim. We will apply an overriding principle of fairness to all aspects of the claims process.

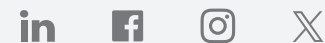
ABOUT ECCLESIASTICAL INSURANCE

Ecclesiastical Insurance Office plc is a specialist commercial insurance company. We are deeply committed to protecting the needs of organizations that enrich the lives of others; to preserving Canada's distinct communities, cultures and history; and to supporting initiatives that help improve the lives of people in need.



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