The General Insurance Council is committed to a fair, ethical and professional industry which ensures that consumers receive responsible, trustworthy advice and service regarding insurance and related financial matters.

**Adjuster Code of Conduct**

This Code builds on the requirements of the Saskatchewan Insurance Act and the Bylaws of the General Insurance Council to provide specific guidance for the conduct of a licensee. It also gives the public information about what they should expect from licensees. It identifies the minimum standards of conduct for licensees, with the recognition and hope that in many areas, conduct of licensees will rise above the minimum requirements.
1. Table of Contents

Each Topic of the Code (Sections 5 through 13 and 16 through 18) has the following headings which are not included in the Table of Contents below:

A. The Principle  
B. Related Bylaws  
C. Requirements: Licensees must:  
D. Contraventions: Licensees must not:  
E. Examples of Misconduct

Contents

General Insurance Council of Saskatchewan ................................................................... 1  
Adjuster Code of Conduct .............................................................................................. 1  
1. Table of Contents ............................................................................................. 2  
2. How to Use this Code of Conduct ....................................................................... 5  
3. Executive Summary of Conduct Principles .......................................................... 6  
4. Definitions ........................................................................................................ 8  
5. Honesty ............................................................................................................ 10  
   F. Situational Guidance .................................................................................... 12  
      1. Lying: ............................................................................................................. 12  
      2. Part of the Truth: ............................................................................................. 12  
      3. Coverage Problems: ...................................................................................... 12  
      4. Insurer-client responsibilities: ........................................................................ 13  
      5. Untruthful clients: .......................................................................................... 13  
      7. Negotiating tactics: .......................................................................................... 14  
6. Privacy, Confidentiality, and Use of Information ................................................ 15  
   F. Situational Guidance .................................................................................... 17  
      1. Claims Files: ..................................................................................................... 17  
      2. Electronic Security: .......................................................................................... 17  
      3. Cellular Phones: ................................................................................................ 17  
      4. Staff Confidentiality Agreements: .................................................................... 17  
      5. Insurer Websites: ................................................................................................ 18
6. Electronic Eavesdropping: ............................................................................................................. 18
7. Information Left in View: .................................................................................................................. 18
8. Voice Mail: ...................................................................................................................................... 18
9. Email or Texts: ............................................................................................................................... 18
10. Mailing mistakes: ........................................................................................................................... 18
11. Privacy Commissioner: .................................................................................................................. 18

7. Requirements of the Act and Other Legislation .............................................................................. 19
   F. Situational Guidance ...................................................................................................................... 21
      1 Finders’ fees and referral fees: .................................................................................................... 21

8. Competence .................................................................................................................................... 22
   F. Situational Guidance ...................................................................................................................... 23
      1 Handling Specialized Risks ........................................................................................................... 23

9. Designated Representatives .............................................................................................................. 24
   F. Situational Guidance ...................................................................................................................... 26
      1 Claims Overload: ........................................................................................................................... 26
      2 Absence of the Designated Representative: ................................................................................ 26
      3 Suspected misconduct by staff: .................................................................................................... 27
      4 Reasons for withdrawal of sponsorship: ....................................................................................... 27
      5 Criminal Record Checks: ................................................................................................................ 27

10. Financial Integrity and Management .................................................................................................. 28
    F. Situational Guidance ...................................................................................................................... 29
        1 Claim Payment Trust Funds: ......................................................................................................... 29

11. Conflicts of Interest .......................................................................................................................... 30
    F. Situational Guidance ...................................................................................................................... 33
        1 Disclosure: ................................................................................................................................... 33
        2 Adjusting firm ownership: ............................................................................................................ 33
        3 Business Relationships: .............................................................................................................. 34
        4 Other occupations: ....................................................................................................................... 34
        5 Personal and Family Relationships: .............................................................................................. 34
        6 Conflicts between Clients: ........................................................................................................... 35
        7 Gifts and Benefits: ......................................................................................................................... 35
8. A Practical Guideline: .............................................................. 35

12. Advertising and Respect of the Public .......................................................... 36
   F. Situational Guidance ................................................................. 38
      1. Business Names and Operating Names: ................................. 38

13. Handling Claims, Clients and Insurers ............................................... 39
   F. Situational Guidance ................................................................. 42
      1. File retention: ................................................................. 42

14. Not Applicable for Adjusters ................................................................. 44
15. Not Applicable for Adjusters ................................................................. 44
16. Dealing with Interested Third Parties ............................................... 45
17. Dealing with Other Licensees ............................................................ 47
18. Dealing with Council .................................................................. 49
   F. Situational Guidance ................................................................. 51
      1. Client Privacy Concerns: ..................................................... 51
      2. Public Information: ............................................................. 51
      3. Reports of potential misconduct or unsuitability: ..................... 51
      4. Licensees’ access to own information from Council: ............. 52
2. **How to Use this *Code* of Conduct**

A *Code* of Conduct is like a roadmap for a professional which lays out the standards and expectations to follow in his or her career. Whether an insurance professional is zooming through that career at great speed, at an intersection of two paths, or in a bumpy patch, frequent use of this ‘roadmap’ will ensure that the professional stays on the right path and avoids actions or practices which harm consumers or may constitute misconduct and lead to disciplinary action.

The *Code* is divided into a number of sections, each of which addresses a specific principle or area of a *licensee*’s activity. Each Principle is defined, correlated to the definitions of Misconduct in the General Insurance Council Bylaws and specific sections of the Saskatchewan Insurance Act, and further clarified with stated Requirements and Contraventions. To provide additional information on what is allowed and what should be done or not done, each section also includes Examples of Misconduct and Situational Guidance. Many Examples of Misconduct are actual cases from Council’s disciplinary records, some are from other provinces, and some are hypothetical.

It is not possible to foresee every possible situation and describe the proper conduct. The examples of misconduct are not complete or exhaustive. If *licensees* or consumers have questions that are not answered by this *Code*, inquiries to Council are encouraged. When reading the *Code*, keep in mind that although presented separately, all principles and requirements are interconnected. For example, the principle of Trustworthiness is fundamental to all activities of a *licensee* and to each of the other principles and activities.

The *Code* applies to all insurance adjusters, who for simplicity are called ‘*licensees*’. This and other key definitions are found in the Definitions section.

The *Code* is in plain language. It is intended to be read and used in conjunction with the Saskatchewan Insurance Act and the Council Bylaws. Excerpts from the Act or Bylaws are included for convenience of the reader and in all cases the entire legal framework must be considered and these excerpts not taken in isolation. The Bylaws, the Insurance Act and other legislation which affects *licensees* such as privacy legislation set the fundamental legal requirements and this *Code* provides interpretative and supplemental information. Further information may be found on the Council website at [www.skcouncil.sk.ca](http://www.skcouncil.sk.ca)
3. Executive Summary of Conduct Principles

Honesty
Licensees must operate with utmost good faith, which means being honest, truthful, reliable and trustworthy.

Privacy, Confidentiality, and Use of Information
Licensees must protect the privacy and personal information of consumers and principals, obtaining proper consent and sharing information as needed to adjust insurance claims.

Requirements of the Act and Other Legislation
Licensees must follow the requirements of the Saskatchewan Insurance Act and its Regulations and the Insurance Council Bylaws.

Competence
Licensees must have the appropriate qualifications and adequate knowledge to handle the claims which they undertake, and only adjust claims for which they are competent.

Designated Representatives
An individual designated by the adjusting firm is responsible to the Insurance Council for the licensing, education and conduct of all insurance professionals in the firm.

Financial Integrity and Management
Licensees must safeguard the financial assets of consumers and insurers, including keeping adequate records.

Conflicts of Interest
Licensees must place the interests of principals and claimants before their own. This means looking out for consumers’ needs, even when the consumers may not know what those needs are.
Licensees must identify any conflicts of interest with consumers or insurers, avoiding them or disclosing them fully in writing before or when they occur.

Advertising and Respect of the Public
Licensees must accurately represent themselves, their credentials, ownership, services, and prices to consumers and principals so that consumers know who is serving them and the principal for whom the licensee is acting.
Handling Claims
Just as an agent must always act in the best interest of the client in selling insurance, an adjuster must also act in the client's best interest in handling claims. Licensees must fully disclose all relevant information to insurers when adjusting claims.

Dealing with Clients and Quality of Service
Licensees must make adequate inquiries into a claim situation, applicable coverage and the role of third parties in order to provide recommendations and explanation of options. Clients and principals must receive fair, full and accurate information and explanations of limitations or exclusions in coverage, in order to make informed decisions. Licensees must document claims service. Responses and services should be provided promptly and efficiently with courtesy and respect. The interests of the client must be paramount at all times.

Dealing with Insurers
Licensees must fully and accurately disclose all relevant information to insurers, represent insurers’ products fairly, follow insurers’ procedures and any authority granted to them by insurers, and promptly and courteously respond to inquiries, obtain and deliver documents and forward claims payments.

Dealing with Interested Third Parties
Any situation where an interested third party receives information or any benefit or involvement in an insurance claim must be authorized by the client or specified in the policy. Interested third parties are due the same duty of honesty, competence, courtesy and prompt service as clients.

Dealing with Other Licensees
Licensees must treat fellow licensees with honesty, courtesy, and respect. If a licensee is aware of misconduct by a fellow licensee, the licensee has a duty to report to Council to protect consumers and the reputation of the insurance industry.

Dealing with Council
Licensees and former licensees must respond promptly, fully, and honestly to inquiries from Council. Licensees must comply fully and in good faith with licensing regulations. Information about licensing is open to the public.
4. Definitions

Defined terms are shown in *italics* in this *Code*, and may be singular, plural or possessive with the meaning adjusted accordingly. Unless otherwise qualified in this *Code:*

- **Act** is the *Saskatchewan Insurance Act;*

  - **adjusting fee** is the amount paid by the *principal* to an adjuster or adjusting firm for claims adjustment.

  - **adjusting firm** is the business, whether a corporation, a partnership, or an individual sole proprietorship *licensee*, which holds an All Classes other than Life Insurance *adjusting firm* licence and meets the requirements as set out in the Act;

  - **client** is a person who may reasonably be expected to rely on an *insurer, adjusting firm, agency* or *licensee* for advice or actions in relation to insurance and includes all claimants and insureds, prospective clients, current clients, and past clients where appropriate;

  - **claimant** is the person claiming on an insurance policy, and may be the insured, a third party claimant claiming damages against an insured, or an interested third party;

  - **Code** is this *Code* of Conduct;

  - **Council** is the General Insurance Council of Saskatchewan;

  - **Designated Representative** is an individual that holds a Level 3 Adjuster/Adjuster Representative All Classes other than Life Insurance licence and is responsible for the management and supervision of the adjusting firm;

  - **insurer** is any insurance company on a client's insurance policy, or an employee or representative who has been authorized by the insurance company to act on their behalf

  - **interested third party** is a loss payee, mortgagee, landlord, additional insured or other similar party who has been authorized by the insured to be shown on the insured's policy or receive information about the policy, and includes legal representatives of such parties including law firms and processing centres;

  - **licensee** is an individual that holds an All Classes other than Life Insurance adjuster/adjuster representative licence to handle claims as defined in the Act; and also includes an adjusting firm where the context allows the Code to apply to the
business as well as an individual. In quotations from the Act, ‘adjuster’ is used with the same meaning as ‘licensee’ in the rest of the Code;

- **management** includes direction and/or control of the operations of an insurance adjusting firm;

- **other parties** are persons who have an involvement in the claims process and may include mortgage companies, leasing companies, lawyers, auto body shops, repair contractors, appraisers, engineers, competitors, third party claimants or the representatives of third party claimants;

- **person** is an individual, corporation, partnership, society, association or other organization or legal entity;

- **principal** is a person on whose behalf a licensee has undertaken to perform adjusting services. For most claims, the principal is the insurer. For public adjusters, the principal is the claimant;

- **supervision** means reasonable and prudent oversight of an insurance transaction;

- **transaction** is a situation in which a licensee provides an insurance service to any person and may include a claim report, claim adjustment, investigation, subrogation or claim settlement.

**Please Note:**

In this Code of Conduct, ‘client’ must be interpreted as defined above, even though adjusters sometimes consider that their ‘client’ is their principal, generally the insurer. ‘Consumer’ is not a defined term but is intended in its common meaning as the public as a whole, anyone who may see advertising or ever become a client.

Where ‘principal’ is intended, principal will be used.

Careful consideration of the words ‘client, consumer, claimant, insured, insurer, principal, interested third party, and other parties’, all as defined above, is essential in reading and applying this Code.
5. **Honesty**

A. **The Principle**

Trust and good faith is the foundation of the insurance business. Whether it is called trustworthiness, good faith, honesty, reliability, forthrightness or integrity, this is the fundamental quality demanded of every licensee, at all times with all people. Honesty is a key element of every aspect of this Code, just as utmost good faith is a foundation of any insurance relationship.

B. **Related Bylaws**

**BYLAW 5 – REGISTER AND LICENSING**

Section 2 (1)

(c) A person applying for licensing must: provide evidence of suitability to be licensed and demonstrate the proposed licensing is not for any reason objectionable; and

Section 3 (3) (a) To be licensed for each subsequent year a person must:

(a) be suitable;

**BYLAW 8 – MISCONDUCT**

(1) For the purpose of the Act, regulations and bylaws, misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable, that is:

(a) contrary to the best interests of the consumer or licensees or insurance companies; or
(b) may harm the standing of licensees in the insurance industry.

(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

(a) engages in any practice that is coercive or has the intended effect of inducing a consumer to making a decision that is not in the best interests of the consumer;
(b) demonstrates an unsuitability or an untrustworthiness to act as a licensee;
(c) in the course of promoting, selling or servicing insurance business, provides in any advertising or other communications information that is false or misleading;
(d) makes a material misstatement in an application for licence or report to continue a licence;
C. Requirements: Licensees must:

1. tell the truth in their professional life and in other areas where a dishonest statement or action may call into question whether the licensee is suitable to hold an insurance licence.
2. be frank and candid in all dealings with clients, insurers, and other parties, subject to the client’s right to privacy.
3. fully disclose their role in the claims adjustment process and the identity and role of the principal for whom they are acting.
4. take reasonable steps to properly inform themselves to ensure they do not mislead clients, insurers, Council or other persons through false statements or failure to provide material information.
5. be reliable, promising only what they honestly expect to provide and what is authorized by the principal, and taking all reasonable steps to live up to what they have promised.

D. Contraventions: Licensees must not:

1. make untrue representation or conceal facts from a client, insurer, Council, other regulators or other parties.
2. deal dishonestly with money, property or claim payments, or commit acts involving theft or fraud.
3. make improper use of their knowledge or position as licensees.
4. make or assist anyone to make a false insurance claim.
5. make or assist anyone to make a false declaration to an insurer.
6. make representations to insurers or clients without reasonable steps to verify that what they are saying is accurate and truthful.
7. counsel a client to misrepresent information or knowingly transmit information which they have reason to believe is not true.
8. take advantage of a client’s inexperience, ill-health, lack of sophistication or difficulties with language or reading.
9. engage in conduct, within or outside the insurance profession, which causes consumers or clients to lose trust in the licensee in particular or the insurance industry in general.

E. Examples of Misconduct:

1. A licensee counseled a claimant to misrepresent material information to an insurer.
2 A licensee “witnessed” a signature when he did not see the individual sign the document or “witnessed” a signature known to be a forgery.
3 A licensee misrepresented the findings of an investigation to the prejudice of an insurer.
4 A licensee misappropriated funds from a volunteer organization while acting in a position of trust for the organization.
5 A licensee materially misrepresented previous vehicle damage.
6 A licensee accepted and kept salvage for his or her personal use.
7 An applicant for a licence, while writing an insurance examination, took unauthorized material into the examination room.
8 A licensee provided intentionally misleading testimony to Council during an appearance before a Disciplinary Hearing Committee.
9 A licensee falsified records of continuing education courses.

F. Situational Guidance

1 Lying:
It is never acceptable for licensees to lie during the course of insurance work.

2 Part of the Truth:
In the normal course of claims adjusting, it is not acceptable to withhold information or provide misleading information which will affect a decision by a client, insurer, or interested third party. However, during an investigation, information may be withheld from a claimant until the investigation is complete, or during negotiation for settlement, details of the principal/s settlement instructions need not be disclosed to a claimant.

3 Estoppels or Claims Problems:
Bylaws include as misconduct a situation where the licensee (o) fails to deal with consumer complaints or disputes or refer the consumer to the appropriate person or authority or process in a timely and forthright manner; or (j) fails to ensure that a consumer or insurer is fully informed of all relevant information that will allow the consumer or the insurer to make an informed decision;
In addition, licensees must at all times follow basic principles of honesty and put the interests of the client before their own interests (see Council Bylaw 8 (2) (h)).
When a claim problem appears to arise from a licensee’s error, licensees must not mislead anyone to cover up or hide the error. When efforts are made to hide or cover up an error, an innocent mistake may lead to misconduct.

The Errors and Omissions coverage carried by licensees normally requires that potential claims be reported as soon as they are discovered and that the licensee shall not admit liability or assume any obligation on a potential claim. It is important for the sake of clients, insurers and licensees that any situation which may lead to an E & O claim should be handled in such a way that the licensee’s E & O coverage is not jeopardized.

At the same time, Council requires licensees to provide to the client all relevant information on how clients can protect themselves from further risk and make informed decisions, including information about their options when there is an estoppel or claim problem. This can be done without accepting responsibility or liability.

To avoid jeopardizing E & O coverage, situations where a denied or partially refused claim may be due to an error should be reported to licensee's E & O insurer promptly.

4 Insurer-client responsibilities:
As adjusters, licensees have responsibilities to both insurers and clients and must be truthful to both. In some situations a client may ask a licensee not to report certain information to the insurer. In others, the insurer may ask the licensee not to report information to the client. Both of these situations put the licensee at risk as withholding information may be misconduct. Licensees must consider carefully whether the information is material and whether the second party has a fair right to the information in question and whether it would prejudice their interest to keep them in the dark. If so, the licensee must explain to the party requesting confidentiality that the licensee has a legal obligation to communicate the information.

5 Untruthful clients:
If licensees have reason to believe that the information provided by a client is not truthful or not accurate, licensees must explain to the client the importance of accurate and truthful information and the risks of misrepresentation. It is often advisable for a licensee to verify and investigate to a reasonable level the accuracy of information on a proof of loss. Information which licensees cannot confirm but believe may be inaccurate should be qualified or noted as ‘advised by client:’ and not passed on to insurers as fact.

6 ‘They told me to…’:
Licensees have tried to justify misrepresentation by saying that they were told by a claims manager, a client, a repair firm, or other parties to omit information or change information on an insurance transaction. Sharing misconduct with others does not excuse or reduce
the misconduct. **If someone asks you to be dishonest, you must decline** and you may need to report the situation to *Council* or to others. See Dealing with *Council* - Section 18 of this *Code* for further guidance.

7 **Negotiating tactics:**

In attempting to settle a claim, a *licensee* may be given authority by the *principal* or *insurer* to offer up to a specific amount. In balancing the interests of the *principal* with the requirement for honesty, the *licensee* must be cautious not to misrepresent his authority or the *insurer’s* offer.
6. Privacy, Confidentiality, and Use of Information

A. The Principle

Licensees must hold in strict confidence and protect from disclosure all information acquired in the course of their professional relationship with clients, and shall not divulge any such information unless authorized by the client or required by law.

Licensees cannot properly adjust claims or give adequate service to the principal without full knowledge of the client’s circumstances and affairs as these affect the insurance claim. Clients therefore must be confident that the information they disclose to licensees will be treated with complete confidentiality by the licensee and all persons in the adjusting firm, and that their private information will be protected from unauthorized access. Unless licensees foster and maintain this trust, they will be unable to provide the service expected and needed by clients and insurers.

All contents of claim files are the property of the principal and are held in trust by the licensee. Files must be provided to the principal upon request.

B. Related Bylaws

BYLAW 8 - MISCONDUCT
(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:
   (m) fails to protect a consumer’s personal information or divulges personal information about a consumer unless authorized to do so by the consumer or as required by law;

C. Requirements: Licensees must:

1. fully and accurately explain to clients what information is required, how that information will be used, and to whom it will be disclosed.
2. obtain written consent for the collection, use and disclosure of personal information from all clients and other parties.
3. protect the confidential information of every client, insurer and other parties indefinitely, even after a licensee no longer acts for the client or insurer, whether or not differences have arisen between the licensee and the client or insurer.
4. implement and maintain proper safeguards for clients’ personal information, including use of secure computer records and passwords, encryption of electronic
data, protection of physical files in locking cabinets, alarms, and other safeguards appropriate in the circumstances.

5 maintain records of claims information as long as the information could be needed to provide claims service or as required by limitation laws. When it is appropriate to discard files or computer storage devices, licensees must do so in a manner that ensures confidentiality of the clients’ personal information. Situational Guidance in Section 14 of this Code provides additional information about retention of files.

6 maintain confidentiality between related parties or co-insureds such as members of a family or business partners.

7 provide at no charge to the client, or other parties who have given a statement, a copy of any statement.

8 when supervising staff, ensure they have thorough training on privacy requirements and a clear understanding of their duty of confidentiality to clients.

D. Contraventions: Licensees must not:

1 collect information beyond what is reasonably needed to investigate and report on the claim which you are adjusting.

2 use client information for any purpose or product other than that authorized by the client.

3 disclose information to any person other than those authorized by the client or as required by law.

4 provide the contents of a claim file or any other information obtained during the claim adjustment (other than the statements referred to in item C. 7: Requirements above) to anyone other than the principal without the express consent of the principal.

5 access confidential client information from an insurer’s database or records without express authority of the client.

6 use the name of one client or principal to promote your services to another client or principal without the first party’s express permission.

7 when leaving the employ of an insurer or adjusting firm, take or use any information of the insurer's or adjusting firm’s clients or information of the insurer in order to offer or market services to others. The client’s or insurer’s permission for the use and collection of information was given to the initial insurer or adjusting firm and does not extend to the licensee who now works elsewhere.
E. Examples of Misconduct

1. A licensee used confidential information for purposes other than what was agreed by the client.
2. A licensee failed to provide for the safekeeping of records and improperly disposed of closed files.
3. A licensee accessed insurer computer data without authorization and provided that information to a third party.
4. A licensee accessed medical information without the consent of the person.

F. Situational Guidance

1. Claims Files:
   In adjusting, the client’s information, given to you by the client, is the property of the client and can only be disclosed to others with the client’s consent, normally to the insurer and any person required by law such as fire and law enforcement. Other information in the file such as investigative reports and claims reports normally is the property of the principal and can only be disclosed with the permission of the principal.

2. Electronic Security:
   Protection of client information held electronically requires excellent computer security practices, including the use of individual secure passwords, regularly changing passwords, screen-blanking with password protection when a computer is not used for a short period or left unattended, removing computer and website access immediately upon the departure of an employee, encryption of electronic messages and secure backup and secure storage of data.

3. Cellular Phones:
   Many licensees correspond with clients using email and text messages on cellular phones. It is important that all the guidelines for electronic security on computers also be used for telephones, including password protection and ensuring the phone is not borrowed or used by people who have not been authorized by the client to access the client’s private information, including contact information. Electronic devices must be safeguarded to protect client privacy.

4. Staff Confidentiality Agreements:
   It is recommended that every staff member in a licensee office, including unlicensed staff, sign a confidentiality agreement and be trained on privacy requirements.
5. **Insurer Websites:**
Licensees are responsible for privacy breaches involving insurer websites which happen through their access logins, with their staff, or from their premises. The security practices outlined in item 2 above must also be maintained with respect to any access to client information on websites of insurers or other third parties such as finance companies.

6. **Electronic Eavesdropping:**
Computer screens must be located where they are not visible to members of the public or clients other than the one whose information is on the screen.

7. **Information Left in View:**
To protect client files from casual intrusion, files should not be left open on a desk or counter or left unattended where there is public access. All client files should be stored and secured when the premises are not open for business. This includes securing information against improper access by contractors or cleaning services.

8. **Voice Mail:**
In leaving telephone messages, all possible care should be taken that the number dialed is accurate. Private information should not be left on a message or voice mail. In many cases anything other than a simple request for a call back can create a privacy breach.

9. **Email or Texts:**
Private information should be communicated by email, text or other electronic means only with the agreement of the client, and then only after the licensee has ascertained that the destination address being used is correct. When setting up a new email or text address, a ‘trial email’ is recommended with a ‘Read Receipt Request’ to verify the address before sending any private information.

10. **Mailing mistakes:**
Errors in mailing documents to clients, insurers, or other parties can result in significant privacy breaches. Envelopes should be checked to ensure that the addressee is correct and no information from another client is enclosed.

11. **Privacy Commissioner:**
If a licensee becomes aware of a privacy breach, in addition to informing the licensee’s designated Privacy Officer and Council, the matter should be referred to the Office of the Saskatchewan Information and Privacy Commissioner.
7. Requirements of the Act and Other Legislation

A. The Principle

Licensees must be aware of and comply with their duties and obligations under the Saskatchewan Insurance Act, its Regulations, and the Bylaws of Council. Licensees must also be aware of and comply with any other legislation, such as the Income Tax Act, Personal Information Protection and Electronic Documents Act, employment and workplace safety legislation, the Auto Accident Insurance Act or any other legislation which governs their particular practice.

Key provisions of the Saskatchewan Insurance Act which affect most licensees are provisions on who can act as an adjuster, the requirement for licensing and the requirement to inform Council about sponsorship withdrawal.

B. Related Bylaws and Act Sections

BYLAW 8 – MISCONDUCT

(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

(g) violates any provision of the Act, the regulations or the bylaws;

Saskatchewan Insurance Act

Interpretation

2(1) In this Act, except where inconsistent with the interpretation sections of any Part:

(d) “adjuster” means a person who:

(i) on behalf of an insurer or an insured, for compensation, directly or indirectly solicits the right to negotiate the settlement of or investigate a loss or claim under a contract or a fidelity, surety or guaranty bond issued by an insurer, or investigates, adjusts or settles any such loss or claim; or

(ii) holds himself out as an adjuster, investigator, consultant or adviser with respect to the settlement of any such loss or claim;

but does not include:

(iii) a barrister or solicitor acting in the usual course of his profession;

(iv) a trustee or agent of the property insured;

(v) a salaried employee of a licensed insurer while acting on behalf of such insurer in the adjustment of losses; or

(vi) a person who is employed as an appraiser, engineer or other expert solely for the purpose of giving expert advice or evidence;
INSURANCE ADJUSTERS LICENCES

Acting as adjuster without licence prohibited

447 No person shall act as an adjuster unless he is the holder of a subsisting licence under this Act as an adjuster or as a representative of a licensed adjuster.

Granting of licence

452 (1) The superintendent may grant a licence if, in his opinion, the applicant is suitable to be licensed and the proposed licensing is not for any reason objectionable, but if the superintendent after investigation is for any reason of the opinion that the applicant should not be granted a licence he may refuse the application.
(2) The superintendent may refuse to grant a licence if the applicant has not paid in full any fees or costs associated with a hearing or investigation into the conduct of the applicant.
(3) The superintendent may refuse to grant a licence if the applicant has not paid in full any fines or penalties assessed pursuant to this Act or the regulations.

Representative of adjuster to act only for adjuster

457 (1) The holder of a licence as representative of an adjuster may act only for the adjuster named in his licence and only within the limits of the adjuster’s licence.

Duty of adjuster where representative ceases to act

(2) Where a representative ceases to act for the adjuster named in his licence the adjuster shall forthwith after the cessation give written notice thereof, with the reason therefor, to the superintendent, and the receipt of the notice by the superintendent shall operate as a suspension of the licence of the representative.

Penalty

(3) An adjuster who fails to give such notice within five days after the cessation is guilty of an offence.

C. Requirements: Licensees must:

1. have a valid insurance licence of the appropriate level for the transactions they are handling. Of the many provisions of the Act which licensees must follow, this one requires special attention. Activities which fall within the definition of an insurance adjuster must be performed by a licensee. A person who does not hold a valid licence as an insurance adjuster must not act as an insurance adjuster. Similarly, a person who has a Level 1 licence may not engage in activities beyond those allowed to a Level 1 licensee.
2. ensure that any employees who are acting as an insurance adjuster have a valid insurance licence of the appropriate class.
3. when acting as the sponsor of a licensee, notify Council within 5 days if the licensee ceases employment or sponsorship is withdrawn.
4. pay all fees and charges assessed by Council when due.

D. Contraventions: Licensees must not:

1. remunerate an unlicensed person for acting as an adjuster, through fee sharing, bonuses, gifts, other payments or any consideration or benefit.
2. direct or allow an unlicensed employee to act as an adjuster.
E. Examples of Misconduct

1. A licensee had his licence cancelled indefinitely for continuing to hold himself out as an adjuster and act as an adjuster when his licence was suspended and for failing to produce documents demanded in accordance with the Insurance Act (S 469 (4)) within the specified time.
2. A licensee allowed a newly hired employee to adjust claims for several months without being licensed.
3. A licensee entered a restricted fire zone for the purpose of adjusting a claim without authorization from the local fire department.

F. Situational Guidance

1. Finders’ fees and referral fees:
   Any compensation paid to non-licensees in connection with the solicitation of adjusting work may contravene the Act. Compensation is a broad term and includes payment of money, goods, or services. Licensees should not enter into any arrangement where an unlicensed person is compensated for soliciting adjusting work on their behalf.

   “Solicitation” may be defined as “the act of entreating or petitioning, to urge, importune, to ask earnestly or persistently”. Each situation must be considered on its own merit, but it is unlikely that simply handing someone a business card or giving them a name and phone number would be considered ‘solicitation’. However repeatedly urging that claims be assigned to an adjusting firm is likely solicitation.

   If a licensee pays any referral fees or finders’ fees to an unlicensed person, the principal should be informed of the nature and amount of any such fee.
8. Competence

A. The Principle

Licensees must have sufficient and current knowledge and skill to handle the claims they undertake in a manner consistent with industry practice. Clients and insurers are entitled to rely on the knowledge and recommendations of a licensee and to assume, if the licensee undertakes to provide service, that he or she has the ability, knowledge and capability to handle the transaction.

Continuing Education requirements for licensees exist because competence is crucial for the performance of a licensee’s duties and to ensure principals and clients are properly served. Licensees are expected to take at least the required continuing education courses in good faith and with the objective of improving their knowledge and skills for the benefit of clients and insurers.

B. Related Bylaws

BYLAW 8 – MISCONDUCT
(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

• (j) fails to ensure that a consumer or insurer is fully informed of all relevant information that will allow the consumer or the insurer to make an informed decision;
• (k) fails to reasonably carry out a consumer’s lawful instructions;
• (p) fails to maintain proper records;
• (q) fails to follow sound business practices;
• (r) fails to exercise reasonable and prudent oversight and review when acting in a supervisory capacity;

BYLAW 9 – INCOMPETENCE
(1) For the purposes of the Act, the regulations and the bylaws, incompetence is a question of fact, but includes the display by a licensee of a lack of knowledge, skill or judgment of a nature or to an extent that the licensee is unfit to continue in the business of insurance or to provide one or more services ordinarily provided as part of the business of insurance.

C. Requirements: Licensees must:

1. actively work to retain and gain knowledge of the insurance business, including developments in the nature of clients' risks, insurance products, remediation practices, construction and repair techniques, and legal changes
2 comply with Continuing Education requirements, with the understanding that these are a minimum requirement. In many situations additional courses are needed to develop sufficient knowledge and skills to ensure competence.
3 practice only in areas where they have sufficient expertise.
4 decline to act in any area where they lack the resources, knowledge or competence to provide advice and service.
5 consult experts where needed.
6 advise clients to consult experts, including non-insurance professionals such as lawyers, accountants or engineers, where appropriate.
7 when acting as Designated Representatives, monitor the competence of licensees and staff under their supervision and ensure that those under their supervision have adequate knowledge and training to perform their duties.

D. Contraventions: Licensees must not:

1 undertake transactions without adequate experience and knowledge.
2 allow staff to act in areas where they lack sufficient competence.

E. Examples of Misconduct

1 A licensee was unaware of the requirement to deliver a proof of loss form within the time specified in the Act.
2 A licensee failed to conduct adequate fact finding into the circumstances leading to the loss.
3 A licensee failed to identify opportunity for subrogation on a large claim, causing financial harm to the principal and client.
4 A licensee was unaware of a policy provision which required the client to replace damaged property within a specified time in order to receive replacement cost.

F. Situational Guidance

1 Handling Specialized Risks: In practice, for a specialized or unusual risk, a licensee must have the knowledge to handle the risk and involve the appropriate experts who are needed for fair claims settlement. It is up to a licensee to recommend to his or her principal the involvement of experts such as engineers, architects, accountants or lawyers and to work with such experts in the interests of the client and principal.
9. **Designated Representatives**

**A. The Principle**

*Designated Representatives* are responsible for all activities of the *adjusting firm* and must ensure an *adjusting firm* and its employees are properly supervised and operate in accordance with the Act, Regulations, *Council Bylaws*, this *Code of Conduct* and the terms of their licences.

Every *adjusting firm* must designate a Level 3 *licensee* to be responsible for the *management* and *supervision* of the adjusting firm. In the event of misconduct by a *licensee* sponsored by an adjusting firm, the adjusting firm and its *Designated Representative* will be held accountable if inadequate *management* or a failing in *supervision* or procedures contributed to the misconduct.

**B. Related Bylaws**

**BYLAW 8 - MISCONDUCT**

(2) Without restricting the generality of subsection (1), a *licensee* may be guilty of misconduct if the *licensee*:

- (r) fails to exercise reasonable and prudent oversight and review when acting in a supervisory capacity;

**SCHEDULE A  PART I**

Section 1. Interpretation

(1) In this schedule:

- (h) “*supervision*” means reasonable and prudent oversight of insurance transactions.

**SCHEDULE A  PART III**

Section 4. Requirements for a Level 3 All Classes other than Life Adjuster/ Salesperson Licence

(2) A Level 3 *licensee* shall not:

- (a) manage an adjusting firm unless he or she has at least two years experience as a licensed adjuster/adjuster representative within the past five years; or
- (b) manage or supervise more than three office locations.

Section 5. Requirements for an Adjusting Firm Licence

(1) An adjusting firm must provide evidence the adjusting firm is registered with the Corporate Registry of the Information Services Corporation.

(2) An adjusting firm must designate one Level 3 *licensee* who is employed predominately by the adjusting firm to be responsible for the overall management and supervision of the adjusting firm and its office locations.
(3) Failure to designate a Level 3 licensee who is responsible for the overall management and supervision of the adjusting firm or its office locations may result in the suspension of the adjusting firm’s licence.

Saskatchewan Insurance Act

INSURANCE ADJUSTERS LICENCES

Representative of adjuster to act only for adjuster
457(1) The holder of a licence as representative of an adjuster may act only for the adjuster named in his licence and only within the limits of the adjuster’s licence.

Duty of adjuster where representative ceases to act
(2) Where a representative ceases to act for the adjuster named in his licence the adjuster shall forthwith after the cessation give written notice thereof, with the reason therefor, to the superintendent, and the receipt of the notice by the superintendent shall operate as a suspension of the licence of the representative.

Penalty
(3) An adjuster who fails to give such notice within five days after the cessation is guilty of an offence.

C. Requirements: A Designated Representative must:

1 have adequate knowledge and experience to fulfill management and supervision duties competently.
2 ensure that adjusting firm staff are properly licensed, competent and adequately trained to fulfill their duties and adjust claims.
3 ensure that a Level 1 licensee is adequately supervised by a competent Level 2 or 3 licensee for activities which require supervision and that all reports and correspondence are signed by a Level 2 or Level 3 licensee.
4 put into place adequate staffing, policies and procedures to establish and maintain proper service to clients and principals on all insurance transactions and to follow this Code.
5 ensure that all Council requirements are met, including but not limited to Errors and Omissions Insurance, Corporate Registration, renewal of individual adjuster licenses, sponsorship of licenses, Continuing Education, Ethics Training, payment of fees and responses to inquiries, investigations and complaints from Council.
6 advise Council within 5 business days when sponsorship of a licensee is withdrawn or employment of a licensee is terminated, including the reason for withdrawal of sponsorship.
7 consider how adequate supervision will be maintained when accepting claims assignments and determining operation of branch offices and other business models.
ensure that provisions are made for adequate supervision when the Designated Representative is not physically present in the office.

D. Contraventions: A Designated Representative must not:

1. manage or supervise more than three office locations.

E. Examples of Misconduct

1. A Designated Representative permitted a Level 1 licensee to sign claims reports and correspondence to clients without proper supervision and signature of a Level 2 or 3 licensee.
2. An adjusting firm employed someone for 5 months in a licensed capacity without ensuring the person was properly licensed.
3. A Designated Representative failed to ensure, while acting in a supervisory capacity, that conflicts of interest which arose during a claim adjustment were appropriately disclosed.

F. Situational Guidance

1. Claims Overload:
   In the event of staff shortage or high claims volume such as a catastrophe, it is the responsibility of the Designated Representative to take steps to maintain adequate service to insurers and clients. In many cases, the only way to comply with good business practices is to decline additional claims assignments or advise principals that service levels will not be maintained as the result of the claims overload.

2. Absence of the Designated Representative:
   Adequate supervision of claims transactions requires close involvement and oversight. It is understood that Designated Representatives will be absent from the adjusting firm, either to supervise other branches or to take vacation or sick leave. Council will not set specific acceptable definitions of time frames or remote accessibility of the Designated Representative. Adequate supervision depends on the training, experience, licensing level and competence of the staff being supervised, the complexity of the claims handled, the availability of other resources or staff (including insurer staff and product experts), and whether the Designated Representative can perform necessary supervision and sign documents by telephone, email, or other communications.
3 **Suspected misconduct by staff:**
When *adjusting firm management* becomes aware of a situation where it is known or appears likely that misconduct has been committed by an employee, the *Designated Representative* must consider the protection of consumers and the reputation of the industry. The seriousness of the misconduct and the likelihood of future misconduct should guide the *Designated Representative’s* actions. If the misconduct is of such a minor nature that the *Designated Representative* feels the employee can continue in his or her role with that *adjusting firm* and decides to continue the employee’s employment, the *Designated Representative* thereby undertakes additional responsibility for any subsequent misconduct. If the alleged misconduct results in the termination of the employee’s position in the *adjusting firm*, the *Designated Representative* must report the situation to *Council* for investigation. To do otherwise allows a *licensee* who may be unsuitable to obtain or maintain an insurance licence, either in Saskatchewan or another province, and is harmful to the protection of consumers.

4 **Reasons for withdrawal of sponsorship:**
In most cases, the reasons for termination of sponsorship do not raise questions of misconduct or unsuitability. *Council* does not require specific details if termination of sponsorship arises because of inefficiency, tardiness, workplace conflicts or non-insurance matters. However, where the reasons reflect a lack of suitability or potential misconduct, *Designated Representatives* must provide full details to *Council*. See Section 18 of this *Code* on Dealing with *Council* for further information.

5. **Criminal Record Checks:**
It is recommended that police record checks or criminal record checks be obtained for any *person* working in a *licensee* office, as staff will often have access to confidential consumer information such as financial details and identification.
10. Financial Integrity and Management

A. The Principle

Financial integrity requires honesty and competence in dealing with the financial aspects of the insurance business. Licensees must have adequate record keeping and business knowledge to ensure that clients and insurers are protected from financial mismanagement. Licensees must safeguard the funds and property of clients and insurers, account for them properly, and pay or deliver them to the rightful owner when due. Licensees must not apply inappropriate financial pressure on clients or principals or charge any fee other than the adjusting fee authorized by the principal.

B. Related Bylaws

BYLAW 8 - MISCONDUCT
(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

   (f) gives or offers to give anything of value for the purposes of inducing a consumer to make an insurance decision;
   (g) violates any provision of the Act, the regulations or the bylaws;
   (k) fails to reasonably carry out a consumer’s lawful instructions;
   (q) fails to follow sound business practices;

C. Requirements: Licensees must:

1. pay to the insurer all funds collected or received on behalf of the insurer, less any deductions authorized by the insurer.
2. forward payments, pay or offer to pay to clients and other parties all funds due to them, promptly and in full and in accordance with the principal’s instructions.
3. always be able to justify a fee when requested, including details of the time and effort spent on a claim, the difficulty and importance of the matter, and any special skill or service provided.
4. maintain records of all payments and property received and due to clients and insurers.
5. where salvage is sold, properly collect, account for, and remit any applicable taxes.
6. establish reasonable and consistent procedures for safeguarding of payments and property received from clients or insurers.
7. handle their personal and business finances appropriately to avoid outstanding judgments, defaults, legal proceedings or bankruptcy.
D. Contraventions: *Licensees must not:*

1. encumber money or property held in trust for *insurers* or *clients*, or use them as security or collateral for a loan.
2. use a gift or payment, other than the claim settlement from the *insurer*, or offer any payment, gift, or thing of value, to induce, bribe or pressure a *client* or *insurer* to make an insurance decision.
3. seek or make any profit beyond *adjusting fees* in any matter entrusted to him or her.
4. acquire any financial interest in any matter entrusted to him or her.
5. charge a fee to the *client* for any claims adjustment service, unless the *client* is the *principal* or such charges are specified in the policy.
6. charge or accept any fee which is so disproportionate to the service provided as to be unconscionable.

E. Examples of Misconduct

1. A *licensee* acted together with other adjusting firms to increase adjusting fees in a catastrophe situation.
2. A *licensee* failed to properly manage the business and finances of an adjusting firm, including not giving claims settlement cheques to *claimants* and third parties.
3. A *licensee* utilized salvage goods while under his or her care and control.
4. A *licensee* had large personal debts and engaged in questionable financial involvement with a number of companies soliciting investors for offshore investments.

F. Situational Guidance

1. **Claim Payment Trust Funds:**
   Any money paid to a *licensee* in trust must be maintained in a separate trust account, and not mingled into operating funds. If a *principal* provides money in trust to an *adjusting firm*, those funds may be paid out only as authorized by the *principal* and only when all required proofs of loss and forms are complete.
11. **Conflicts of Interest**

A. **The Principle**

A conflict of interest occurs when the best thing for one party is not the best for the other. In insurance, conflicts commonly arise when what is best, easiest, or most profitable for the *licensee* is not what is best for the *client* or *insurer*.

*Licensees* must place *clients* and *principals* first, and consider what is best for themselves only as a secondary factor. Similarly, *licensees* must fairly protect the interests of *insurers* and *other parties* even when those conflict with their own interests. A conflict of interest may also exist when a Licensee’s duty to one *client* or to an *other party* conflicts with the duty to a second *client*.

A conflict may be real, potential, or apparent. A real conflict is present when the best interest of each party actually differs. A potential conflict exists when it is foreseeable that the best interest of each party may differ in the future, depending on circumstances or changes. An apparent conflict is when a reasonable *person* is likely to believe that the situation presents or will present a conflict, even if the *licensee’s* actions and responsibilities to the *client* have not been negatively influenced by the situation.

Involvement in a business or occupation other than the insurance activities for which a *licensee* is licensed may make conflicts of interest likely or create apparent conflicts, thereby making a *licensee* unsuitable to hold an insurance licence.

Should there be a real, potential or apparent conflict of interest, *licensees* must disclose all relevant information to *clients* or *insurers* so *clients* or *insurers* can make informed decisions about whether they wish to have the *licensees* act on their behalf. If full disclosure is not possible because of confidentiality or privacy issues for some other *client*, the *licensee* must decline to handle the *transaction*.

Following full disclosure, a *principal* or *client* may be asked if he or she consents to the conflict and wishes to involve the *licensee* in the claim. Such consent must include details of the conflict of interest, be in writing and be signed by the *client*. Only if the *licensee* fully believes she or he can represent the *client* or *principal* without the conflict having a negative effect on the *client’s* or *principal’s* interests should the *licensee* act in the *transaction*. 
Full disclosure and consent, in itself, does not remove a conflict of interest. If the conflict is real and will significantly affect a client’s access to proper claims settlement and advice, licensees must eliminate the conflict, suggest that the client seek independent advice, or decline to handle the transaction.

B. Related Bylaws

BYLAW 8 - MISCONDUCT
(1) For the purpose of the Act, regulations and bylaws, misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable, that is:
   (a) contrary to the best interests of the consumer or licensees or insurance companies; or
   (b) may harm the standing of licensees in the insurance industry.

(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:
   (a) engages in any practice that is coercive or has the intended effect of inducing a consumer to making a decision that is not in the best interests of the consumer;
   (f) gives or offers to give anything of value for the purposes of inducing a consumer to make an insurance decision;
   (h) fails to place the interests of the consumer before those of the licensee or others;
   (l) fails to disclose to a consumer or insurer any conflict of interest that may exist;
   (o) fails to deal with consumer complaints or disputes or refer the consumer to the appropriate person or authority or process in a timely and forthright manner;

C. Requirements: Licensees must:

1. examine the potential for a conflict of interest when accepting a claims assignment or entering into a relationship with a client or insurer and re-examine that potential as circumstances change or new information becomes known.
2. avoid involvement in other businesses or professions if through that involvement frequent conflicts of interest may arise.
3. inform Council about any other occupation or business, providing full details.
4. be aware of the potential for any conflict of interest and actively bring the issue to the attention of the other party, not waiting until the other party raises the question.
5. provide a full explanation of why there may be a conflict of interest to clients and insurers whenever there is an actual or potential conflict associated with a transaction or a recommendation.
6 ensure the client or insurer fully understands the situation and how a conflict of interest may arise before he or she makes a decision about the transaction.
7 ignore differences in fees, compensation, bonuses, contests, prizes or other personal or business benefits in making any recommendations with respect to claims settlement.
8 deal with any formal or informal allegations of a conflict of interest in good faith, quickly and honestly.
9 refer clients or insurers with whom there is a conflict to other licensees who can serve them without a conflict of interest.
10 when asked to act under separate policies for more than one principal in the same matter, notify and gain approval from each principal before undertaking the claim.
11 if different licensees in the same adjusting firm are asked to act for opposing interests in the same matter, notify and gain approval from each principal before undertaking the claim.
12 if an irreconcilable conflict of interest develops between a licensee’s duty to an insurer and the licensee’s other duties, the licensee should decline to act in the transaction.

D. Contraventions: Licensees must not:

1 engage in any other occupation or business which will make conflicts of interest likely or common or undermine the licensees’ independence, integrity, or ability to properly serve clients or insurers.
2 assume that clients or insurers are aware of business situations which may lead to a conflict and therefore not provide proper disclosure.
3 misrepresent the ownership structure and shareholders of their adjusting firm to insurers or clients. Licensees who choose not to disclose this information when asked must withdraw from handling the claim.
4 misrepresent any substantial financial involvement by others in the adjusting firm or by the adjusting firm in other businesses, which may influence recommendations, service or information given to clients, insurers or other parties. Licensees who choose not to disclose this information must withdraw from handling the claim.
5 borrow money from clients, loan money to clients, suggest that clients invest in any business or property of the licensee, or invest in any business or property of a client.
6 sacrifice the interests of one client or insurer to another, regardless of the amount of business with a client or insurer or other considerations.
7 take advantage of a client’s inexperience, lack of sophistication, lack of education, language barrier or ill health.

8 seek to influence for the benefit of the licensee or his or her principal the conduct of any person through a financial inducement, gratuity or gift.

9 accept any financial inducement or gift in exchange for recommending the services of a third party such as a contractor or auto body shop.

10 offer or give any financial inducement to agents, insurers, or their staff for using or recommending the licensee’s services.

E. Examples of Misconduct:

1 A licensee recommended that a client accept a total loss settlement on her vehicle rather than have the vehicle repaired because the licensee’s brother was looking for a similar vehicle to buy and restore.

2 A restoration contractor invited a number of adjusters for an all-expenses paid trip to a northern fishing camp. Those adjusters who accepted the trip were in a conflict of interest position when the contractor quoted on construction work for claims handled by the adjusters.

3 A licensee contacted a contractor who was a friend prior to the closing time for bids on an insurance construction contract to advise the contractor that their bid needed to be $8,000 lower.

4 An insurer had a substantial financial interest in an adjusting firm. The adjusting firm frequently recommended that insurer to clients to the detriment of other insurers when clients were dissatisfied with a claims settlement, without disclosing the insurer’s financial interest and the resulting conflict of interest.

5 A licensee advised a client that the client must use a service provider chosen by the licensee.

F. Situational Guidance

1 Disclosure:
Disclosure of a potential conflict of interest should be in writing or confirmed in writing after a verbal disclosure.

2 Adjusting firm ownership:
Clients are entitled to know who owns an adjusting firm. Ownership details may create a conflict of interest or perception of a conflict of interest in the client’s mind.
3 **Business Relationships:**
*Licensees* who are engaged in business outside their insurance adjusting firm encounter more frequent potential conflicts of interest. In these situations, *Council* may determine that the *licensee* is unsuitable by virtue of other business activities. For example:

a. a *licensee* who also owns part of an auto body shop will be in a conflict position when a *client* asks for advice about where to get a car fixed or whether their damaged auto should be repaired or written off. In addition, there will be a real conflict of interest between the *licensee* and the *principal* if the *licensee’s* auto body shop repairs any vehicle or equipment damaged in a claim being adjusted by the *licensee*.

b. a *licensee* who also operates a construction or restoration firm will be in a conflict position whenever a property damage claim requires construction or restoration services. Even if the adjuster’s construction firm does not quote job for claims handled by that adjuster, the confidential information received by the adjuster in reviewing bids for various jobs from other contractors creates an unfair advantage to the adjuster’s construction firm and a public perception of wrongdoing.

c. a *licensee* who rents space in the adjusting firm’s building to another business and also is assigned a claim for that business will be in a conflict position if there is a dispute about the cause, severity or repair of building damage.

4 **Other occupations:**
*Clients* may feel pressured to make poor decisions on an insurance claim if the *licensee* also has another occupation in which he or she may have influence over the *client* or where the *client* may need help, services, favours, or consideration from that *licensee*. Examples of professions falling into this category are teachers, priests, pastors, and other religious professionals, police officers, immigration consultants or officers, elevator agents and grain buyers, doctors or health care workers, and politicians at the federal, provincial, or municipal level. Any occupation other than insurance must be disclosed to *Council* whenever it is undertaken, or ideally before it is undertaken. Where a second occupation creates a risk that *clients* may be subject to undue pressure or coercion, the *licensee* may have to choose between that occupation and being an insurance *licensee*.

5 **Personal and Family Relationships:**
Personal or family conflicts can lead to situations where the *licensee’s* ability to serve the *client* is impaired, or the *client* may have a perception that the *licensee* may be biased or
unfair. Even if there is no financial conflict, an emotional conflict is a serious matter which *licensees* must deal with professionally and honestly. As with all conflict of interest situations, the first step is open and forthright disclosure and discussion of the situation. In most cases the *principal* will decline to assign a claim to an adjuster who has a personal relationship with a *claimant* once the relationship is revealed.

6. **Conflicts between Clients:**
In any situation where *clients* are in opposition to each other, such as liability claims, *licensees* may find themselves in a conflict of interest situation simply because they handle claims for both parties. Examples are auto accidents where fault may be disputed, claims involving a condominium corporation and individual unit owners, disputes between a retailer and their suppliers or a contractor and the building owner or the common situation of a claim which involves both a tenant and landlord.

Any such situation must be disclosed to both the *principal* and the *claimant* and in most cases the *licensee* should decline to act in one matter or the other.

In these cases, each *client’s* privacy rights must be upheld even though the *licensee* has an obligation to disclose a potential conflict of interest. Personal information, including the simple existence of a coverage or policy, must not be disclosed. Refer to Privacy, Section 6 of this *Code* for more information.

7. **Gifts and Benefits:**
In all situations, *licensees* are expected to approach and recommend the best providers for any service required by *clients* or *principals*, treating all service providers fairly, providing full and complete disclosure of all relevant information to service providers, providing all acceptable options to *clients* and *principals*, and allowing and encouraging *clients* to choose the service provider. Whenever business is ‘steered’ to specific service providers, or alternately specific service providers are eliminated from fair competition for business, *licensees* are not acting in the best interest of the *client* or *insurer*. In that case, any gifts, prizes, trips or benefits accepted by the *licensee* are considered an improper inducement.

8. **A Practical Guideline:**
In most cases, if *licensees* wonder whether a situation should be disclosed as a potential conflict, it should be. In practice, *licensees* should ask themselves “If the other *person* found out later about this, is there a chance they might be upset or wonder if I was being fair to them and giving them my very best advice and service?” If the answer is yes, there is a potential conflict which must be disclosed.
12. Advertising and Respect of the Public

A. The Principle

It is the duty of every licensee to enhance the respect of the public for the insurance industry. Licensees must conduct themselves professionally, with courtesy and fairness to their principals, to consumers, to clients, to insurers, to other licensees and to Council. Licensees must represent themselves, their services and their products accurately and honestly at all times. Clients are entitled to know with whom they are dealing. Advertising claims must be supported by evidence. Advertising and service delivery methods must always be consistent with integrity, professionalism, and good advice to clients.

B. Related Bylaws

BYLAW 8 - MISCONDUCT
(1) For the purpose of the Act, regulations and bylaws, misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable, that is:
   (a) contrary to the best interests of the consumer or licensees or insurance companies; or
   (b) may harm the standing of licensees in the insurance industry.
(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:
   (c) in the course of promoting, selling or servicing insurance business, provides in any advertising or other communications information that is false or misleading;
   (o) fails to deal with consumer complaints or disputes or refer the consumer to the appropriate person or authority or process in a timely and forthright manner;

C. Requirements: Licensees must:

1 represent themselves or hold themselves out in the name shown on their licence.
2 ensure sales materials and advertising are clear and honest.
3 disclose their role as an adjuster and the identity of their principal to clients prior to conducting any adjusting activities.
4 encourage public respect for and confidence in the profession of insurance and try to improve the practice of that profession.
5 report to Council any instance of misconduct under the Act or Bylaws, in good faith and without malice or ulterior motive.
6 attempt to persuade consumers to report potential situations of misconduct to Council.

7 inform themselves as to the insurance dispute resolution options available to consumers, including appraisal, arbitration, ombudservices, Council, and the Superintendent of Insurance. Licensees must advise clients and other members of the public of these options when this advice may assist to resolve a consumer complaint or dispute.

D. Contraventions: Licensees must not:

1 represent themselves or their adjusting firm as having expertise in a given area or having certain qualifications unless such statements are fully supported by fact.

2 advertise products, services, or prices which cannot be provided or are subject to any qualifications which are not clearly disclosed in the advertising.

3 misrepresent the size of their firm.

4 advertise the names of insurers for whom they have undertaken claims without the express consent of such insurers.

5 encourage any person other than a representative of the principal to advise the licensee of any claim occurrence.

6 defame or discredit the industry, insurers or other licensees.

7 make false or misleading statements in the solicitation of adjusting assignments.

8 communicate in an abusive, offensive, or unprofessional way in the course of business.

9 engage in harassment or unlawful discriminatory practices.

10 engage in any other activity, occupation or business which may bring the insurance industry into disrepute or undermine the faith of clients, insurers or other parties.

E. Examples of Misconduct

1 A licensee advertised that he or she had a branch in a city where there was no actual branch.

2 A licensee published printed material which, taken at face value, was liable to damage the reputation of persons engaged in the insurance business, alleging that insurance companies practiced sneaky price increases and robbed clients with high premiums.

3 Conviction for a criminal offense, unrelated to work in the insurance business, brought into question professional integrity and suitability to act as a licensee.
4 A licensee induced an individual to provide a statement for a claim investigation prior to identifying on whose behalf he or she was acting.

5 A licensee disclosed confidential file information in promotional material, including testimonials from claim files with identifying information, settlement amounts and liability decisions.

F. Situational Guidance

1 Business Names and Operating Names: Licensees must operate in the name shown on their licence and the name shown must not be misleading to consumers. For example, if a licensee uses the name ‘Jane Smith and Associates’, consumers can reasonably expect that Jane Smith has associates working with her. Similarly, if a client sees a sign or advertising from a licensee, that client should be able to identify the licensee under the same name in a Licensee Search on Council’s website. Corporate names, partnerships, subsidiaries or other operating names, such as those used on websites or for branch offices, must be properly registered to the legal entity and must be reflected in the business’ insurance licence. There should be no doubt in the client’s mind about the nature or identity of an entity providing adjusting services.
13. Handling Claims, Clients and Insurers

A. The Principle

An adjuster must act in the best interest of the principal within the constraints of proper conduct in any claims matter. Licensees must make sufficient inquiry into the circumstances of the claim and fully and accurately disclose all material information to insurers, represent insurers fairly, follow the insurers' procedures and any authority granted to them by insurers, and promptly deliver documents and claims payments.

This includes a duty to fully disclose to a principal all material information which is discovered in the course of adjusting a claim, even if that information is not directly related to the specific claim being adjusted. It is in the best interest of consumers and the insurance industry to ensure that risks are properly revealed to insurers, unsafe conditions are corrected, and fraudulent and inflated claims are not paid. Licensees are obligated to cooperate in reducing insurance fraud.

At the same time, adjusters must act for the good of consumers and take all steps within their power to ensure that clients are fairly compensated for valid claims.

Licensees must document all discussions and correspondence in adjusting a claim and maintain organized and accurate files.

B. Related Bylaws

BYLAW 8 - MISCONDUCT

(1) For the purpose of the Act, regulations and bylaws, misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable, that is:

(a) contrary to the best interests of the consumer or licensees or insurance companies;
(b) may harm the standing of licensees in the insurance industry.

(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

(a) engages in any practice that is coercive or has the intended effect of inducing a consumer to making a decision that is not in the best interests of the consumer;
(b) fails to place the interests of the consumer before those of the licensee or others;
(j) fails to ensure that a consumer or insurer is fully informed of all relevant information that will allow the consumer or the insurer to make an informed decision;
(k) fails to reasonably carry out a consumer’s lawful instructions;
(l) fails to disclose to a consumer or insurer any conflict of interest that may exist;
(o) fails to deal with consumer complaints or disputes or refer the consumer to the appropriate person or authority or process in a timely and forthright manner;
(p) fails to maintain proper records;
(q) fails to follow sound business practices;

C. Requirements: Licensees must:

1 handle claims promptly, responding to inquiries without undue delay, with courtesy and fairness.
2 provide full disclosure to the client of all relevant areas in which the policy provides coverage.
3 diligently follow the instructions of the principal in adjusting a claim, unless those instructions are contrary to provisions of this Code.
4 act within the authority of the principal.
5 as soon as possible when a claim is reported, provide information to clients about immediate protection of persons and property and the claims process.
6 inform principals and clients of any matter which may materially affect the claim or prejudice their interests, including coverage limitations, settlement options, exclusions, conditions, and other policy provisions.
7 be aware of and deal appropriately with any conflicts of interest in providing claims service, giving advice on repair, replacement or valuation, or in situations where two clients may be involved in a claim.
8 ensure that clients are aware of all deadlines and prescription periods which may affect their claim.
9 take reasonable steps to keep clients informed of the status of their claims.
10 give clear information to clients confirming the client is responsible for hiring service providers such as contractors or body shops.
11 where coverage is denied, advise the client promptly in writing of the denial. It is good practice in this situation to contact the client’s agent or agency if possible and explain the reasons for the denial.
12 when dealing with a claim by a third party, if the insured has or may have an interest in the settlement, including situations where there is a retention by the insured or where the claim may exceed policy limits, keep the insured as well as the principal informed.
13 where a potential claim by a third party is not considered valid under a policy, upon instruction of the principal, notify the third party promptly in writing.
make full and prompt disclosure to the principal of all policy violations and any evidence of fraud, misrepresentation, non-disclosure, falsification of facts or records, or attempts to improperly influence the claims process.

facilitate fair settlement of claims and deal with all formal and informal complaints in good faith and in a timely and honest manner. This includes referring claimants to all appropriate dispute mechanisms.

inform the principal about the involvement of any other licensee or anyone who is assisting in the claim investigation and is retained by the licensee to whom the claim is assigned.

D. Contraventions: Licensees must not:

1 enter upon any investigation without specific authorization from the principal.
2 discourage a client from making a legitimate insurance claim or in any manner delay a claim from being presented, thereby prejudicing the client’s best interests.
3 give legal advice or discourage a client from seeking legal advice.
4 deal directly with a client where the client has retained a lawyer and the lawyer confirms he or she is representing the client.
5 deny a claim which the licensee believes to be valid without expressing his or her views clearly and in writing to the principal.
6 use any practice or conduct that delays claims settlement or undermines the fair adjustment of claims.
7 counsel a client to misrepresent any aspect of a claim report or proof of loss.
8 withhold information relevant to the claim from the insurer or the insurer’s representative.
9 undermine or malign the reputation of adjusters, agents, or insurers.
10 act in the solicitation, placement or negotiation of insurance unless also licensed as an agent.
11 ask clients to sign statements, proofs of loss or other documents which are incomplete. If information is not available, those sections of the forms must be noted as 'To Be Advised' or ‘information to follow’ prior to the client signing the document.
12 promise results or services which the licensee cannot fulfill.

E. Examples of Misconduct

1 A licensee failed to advise a claimant about the statutory limit on a claim, thereby prejudicing the claimant’s interests.
2 A licensee acted outside the authority given by the principal.
3 A licensee was instructed by the principal to delay claims settlement and followed those instructions.
4 A licensee failed to notify the insurer or agent that he or she had discovered an undeclared occupancy in a building where a claim had occurred.

F. Situational Guidance

1 File retention:
The time period for which closed claim files should be kept depends on the situation, whether files are paper or electronic. The basic principle is that files must be kept as long as the file may be needed to resolve a consumer’s problem. In some cases claims files are sent to the principal when closed. If files are retained by licensee, all documentation should be retained as long as a future dispute or related claim could materialize.

The following additional information may be helpful for licensees:

- The Act allows prosecution or disciplinary action for up to 3 years from the date the facts of a misconduct situation came to the knowledge of the Superintendent or Council.
- The Act specifies that the time allowed under the Limitations Act for an action against an insurer starts once the final determination of a liability claim has occurred.
- All insurance policies must comply with the Limitations Act of the Province of Saskatchewan.
- Under the Limitations Act, most actions must be commenced within 2 years from when the claimant knew or ought to have known about the occurrence, the causes of the occurrence, and who might be held responsible.
- Because the claimant may not know enough to file a lawsuit for many years, the Limitations Act provides an ultimate limitation of 15 years from the date of the act or omission.
- For minors, persons incompetent to manage their affairs, and in the case of domestic assault or sexual assault, the limitation period does not apply, so effectively a lawsuit may begin decades after an occurrence.

As an ordinary example of the legislative provisions summarized above, let’s assume that George’s steps are unsafe and while visiting him, Melanie is injured. Melanie has 2 years
from the date of an accident to sue George. If after a year's investigation, George’s insurer denies coverage for misrepresentation on the application for home insurance, George has 2 years from the date of denial to sue the insurer and, depending on the situation, perhaps the adjuster or broker. In this case, it could 2+1+2=5 years from the accident before the adjuster knew a lawsuit was being filed. If Melanie was 6 years old at the time of the accident, she will be a minor until the age of 18, the time delay could be 12+2+1+2=17 years. Council suggests that the prudent course for licensees is to scan paper documents and maintain electronic files for as long as possible.

Licensees may wish to obtain legal advice for their particular situation or for any complex files. Licensees must follow all requirements for privacy and protection of personal information both in keeping and in discarding client files.

Where a file is involved in a disciplinary investigation, no material from that file can be destroyed, discarded or removed without the approval of Council.
14. **Not Applicable for Adjusters**

15. **Not Applicable for Adjusters**
16. Dealing with Interested Third Parties

A. The Principle

Clients must authorize any situation where an interested third party receives information or is given any benefit or involvement in the insurance policy. In many cases this authorization will have occurred when an interested third party was added to a policy prior to a claim. Interested third parties are due the same duty of honesty and competence as clients.

In the case of a third party claim against the insured, licensees must ensure the insured is fully informed of the claim. When the interests of a third party are in conflict with the interests of a client, the client’s interest is paramount. In those situations, licensees must inform the client and principal about the conflict and explain the client’s interests and options and take direction from the client and principal.

B. Related Bylaws

BYLAW 8 - MISCONDUCT

(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

(c) in the course of promoting, selling or servicing insurance business, provides in any advertising or other communications information that is false or misleading;
(h) fails to place the interests of the consumer before those of the licensee;
(j) fails to ensure that a consumer or insurer is fully informed of all relevant information that will allow the consumer or the insurer to make an informed decision;
(k) fails to reasonably carry out a consumer’s lawful instructions;
(l) fails to disclose to a consumer or insurer any conflict of interest that may exist;
(m) fails to protect a consumer’s personal information or divulges personal information about a consumer unless authorized to do so by the consumer or as required by law;

C. Requirements: Licensees must:

1 ensure that any request for information on a client’s policy or claim is authorized by the client or principal and is in the client’s or principal’s best interest.
2 keep any interested third party informed about the claim progress and any deadlines, conditions, provisions or statutory limitation dates which may affect their interests.
D. Contraventions: *Licensees must not:*

1. reveal any information to a third party beyond what is authorized by the *client* or *principal*.

E. Examples of Misconduct

F. Situational Guidance
17. **Dealing with Other Licensees**

**A. The Principle**

Licensees as a group represent the insurance industry to consumers. Licensees must treat fellow licensees with honesty, courtesy, and respect, promoting the integrity of and public respect for the insurance profession. If a licensee is aware of misconduct by a fellow licensee, in the interest of consumer protection the licensee has a duty to report the misconduct to Council. See Section 18 of this Code for details of this duty.

**B. Related Bylaws**

**BYLAW 8 – MISCONDUCT**

(1) For the purpose of the Act, regulations and bylaws, misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable, that is:

(a) contrary to the best interests of the consumer or licensees or insurance companies; or

(b) may harm the standing of licensees in the insurance industry.

**C. Requirements: Licensees must:**

1. use professionalism and respect in all communications with other licensees, including competitors.
2. maintain as the primary concern what is best for clients and principals in all dealings with other licensees.
3. disclose to clients and insurers any arrangements to involve a licensee from another adjusting firm in an insurance transaction.
4. ensure that any other licensee involved in an insurance transaction is properly licensed and competent to handle the transaction. If the other licensee is not licensed in Saskatchewan, a licensee must verify whether the other licensee requires Saskatchewan licensing given the activities involved.
5. maintain the integrity of the insurance profession in treatment of other licensees.

**D. Contraventions: Licensees must not:**

1. defame or discredit other licensees.
2. use disciplinary information from Council to discredit a licensee.
E. Examples of Misconduct

1. A licensee used Discipline information in a Council Bulletin to discredit another licensee.
2. A licensee failed to inform an insurer that a transaction was being handled through an arrangement to sub-contract work to another licensee.

F. Situational Guidance
18. **Dealing with Council**

**A. The Principle**

The Government of Saskatchewan has entrusted Council to set and enforce standards of professional conduct in the insurance industry for the protection of consumers. Licensees benefit from a degree of self-regulation under the Act and Bylaws. Successful protection of consumers requires the co-operation and support of all licensees.

Licensees and former licensees must respond promptly, fully, and honestly to inquiries from Council. Licensees must comply fully and in good faith with licensing regulations.

Information about licensing is open to the public.

**B. Related Bylaws**

**BYLAW 8 - MISCONDUCT**

(1) For the purpose of the Act, regulations and bylaws, misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable, that is:

(a) contrary to the best interests of the consumer or licensees or insurance companies; or

(b) may harm the standing of licensees in the insurance industry.

(2) Without restricting the generality of subsection (1), a licensee may be guilty of misconduct if the licensee:

(d) makes a material misstatement in an application for licence or report to continue a licence;

(s) fails to reasonably respond to inquiries from council.

**C. Requirements:** Licensees must:

1. respond promptly and honestly to inquiries from Council.
2. complete all licensing applications and other forms fully and accurately.
3. maintain Errors and Omissions insurance in accordance with the Bylaws and provide evidence of insurance to Council immediately upon request.
4. advise Council of any delay or difficulty in meeting E & O insurance requirements.
5. advise Council of any change in personal situation or the status of a question on a licensing application, including address, initiation or settlement of bankruptcy procedures, commencement of civil actions against the licensee, criminal charges,
other licensing investigations or discipline, or entering a business or employment outside the insurance industry.
6 maintain certificates and records of Continuing Education and provide these on request.
7 comply with any conditions or requirements placed on their licence.
8 assist in providing information during the course of an investigation into misconduct by another licensee if requested by Council.
9 if asked to serve on an Investigation Committee, Complaint Review Committee, or Discipline Hearing Committee, disclose any conflict of interest, prejudice or prior involvement with the parties which might influence the proceedings or findings of the Committee.
10 provide full information about all other occupations and business ownership to Council to allow for a proper assessment of Conflict of Interest risks and suitability.

D. Contraventions: Licensees must not:

1 mislead or attempt to mislead Council.
2 make material misstatements in any licence application or other licensing form or in response to any request for information from Council.
3 delay an investigation through deliberate, unwarranted or excessive delays in responding to inquiries or providing access to files.
4 divulge any information to any party other than Council during the course of a Council investigation up to and including a Complaint Review.
5 discourage any consumer from complaining to Council about a licensee.

E. Examples of Misconduct

1 A licensee failed to maintain errors and omissions insurance.
2 A licensee falsely reported completion of courses to meet Continuing Education requirements.
3 A licensee failed to notify Council when a civil action relating to breach of contract in insurance employment was commenced against him or her.
4 A licensee failed to notify Council when the insurance regulator in another province commenced proceedings against him or her.
F. Situational Guidance

1. **Client Privacy Concerns:**
   In order to investigate potential misconduct and consumer complaints, *Council* has the right to examine *client* files, a *licensee’s* accounting records, and all other information gathered, produced or used by *licensees* in the course of their insurance operations. Requests from *Council* constitute a lawful request for information and personal information of *clients, licensees* or employees must be provided to *Council*. *Council* will inform *clients* if necessary about the use of their personal information for regulatory purposes and protect *client* information from unauthorized use.

2. **Public Information:**
   According to the Act, a register of *licensees* must be available to the public. This includes:
   1. The *licensee’s* name and address for service and the class of licence held.
   2. The name and address for service of the sponsoring adjusting firm or *insurer*, where sponsorship is a requirement of licensing.
   3. Terms and/or conditions that have been applied to the licence.
   4. The status of a licence (i.e., active, suspended, cancelled or expired).
   5. Any formal disciplinary action, recorded on a *licensee’s* record, such as letters of warning, licence suspensions, cancellations or other orders of a Disciplinary Hearing Committee confirmed by *Council* (except Cautionary Letters of Warning).

   During the course of a disciplinary process, information received up to and during a Complaint Review is confidential. If the Complaints and Investigation Committee directs a letter of warning and the appeal period for that decision expires, the letter of warning becomes public information.

   If a complaint is referred to a Disciplinary Hearing Committee, the time and place of the hearing and nature of the complaint is public information. Hearings are open to the public and hearing decisions are public information. Similarly, Consensual Agreements are public.

3. **Reports of potential misconduct or unsuitability:**
   It is understood that in many cases, misconduct has not been proven, but the situation is such that it looks like the most likely explanation. Those who discover a situation where misconduct seems likely should remember that it is *Council’s* responsibility, not the responsibility of another *licensee*, to investigate and determine whether misconduct has occurred, and also to determine the severity of the misconduct. *Licensees* are encouraged to report to *Council* as soon as a situation arises rather than seeking more evidence on their own. This avoids possible allegations that information was withheld from *Council* or
that a licensee caused a delay which affected Council's ability to gather evidence or witness statements and placed more consumers at risk.

In reporting possible situations of misconduct or unsuitability, whether by fellow licensees or staff, a licensee should give Council the facts as they are known or understood by the licensee and avoid personal opinions or conjecture.

4. Licensees' access to own information from Council. Licensees have the right to access information about themselves held by Council, with the exception of limited circumstances where such access may be harmful to a consumer.