



**Government of South Australia**  

---

**SA Health**

# **CLAIMS PROCEDURES GUIDELINES**

**For The Public Health Sector**

# CLAIMS PROCEDURES

## INDEX

	<b>PAGE</b>
Introduction.....	3
What is Covered.....	4
Claims Procedure.....	5
Definitions - Incident and Claim.....	6
Claims:	
• Liability .....	7
• Property Damage/Loss.....	9
• Machinery Breakdown.....	10
• Motor Vehicles .....	11
• Corporate Travel .....	12
General Details:	
• Reporting Procedures .....	12
• Service of Summons .....	14
• Excess.....	14
• Discharge and Release Forms.....	14
• Legal Governance and Insurance Services Staff .....	15

## Introduction

Legal Governance and Insurance Services (LGIS) of SA Health (The Department) manages the Department's insurance program (the Program) for the public health sector.

Generally the Program indemnifies any claim made against entities in respect to "risks of the Crown". There are however, agreements outside of this generality that capture Non Government Organisations.

An **entity** is defined as being a health unit, an organisation involved in health related activities (eg SA Ambulance Service) or a Health Advisory Council.

The indemnity is not limited in quantum and the insurance provided is significantly wider than that available in the commercial insurance market.

The Program is underwritten by SAICORP, the Insurance Division of the South Australian Financing Authority.

## What is Covered

The following information reflects details consistent with SAICORP's claims management procedures and procedures adopted by LGIS.

The indemnity provided to entities covers any liability that may arise as a result of an occurrence/event. Details can be found in the *Explanation of Insurance Arrangements* document, which also outlines the deductible (excess) applying to various categories of insurance.

There are a number of categories of insurance, which are available to entities, including:

- Professional Indemnity (Medical Malpractice)
- Professional Indemnity (other e.g. negligent professional advice)
- Public/Products Liability
- Directors and Officers Liability
- Property Damage (loss and/or damage to buildings/contents)
- Machinery Breakdown
- Consequential Loss
- Fidelity Guarantee
- Motor Vehicles
- Personal Accident for Volunteers and Directors
- Corporate Travel

The categories of insurance outlined above correspond to the insurance cover provided by SAICORP to public sector agencies.

Not all categories of insurance apply to all entities (e.g. motor vehicles leased through Fleet SA are insured through that agency's arrangements with Fleet SA, Health Advisory Councils are not covered for medical malpractice claims).

## Claims Procedure

Different procedures apply to different categories of insurance. It is therefore necessary to outline the procedures for different categories of insurance to ensure that:

- entities are aware of their responsibilities;
- the approach for dealing with a claim occurs in a consistent manner.

It is suggested that (where practical) each entity identifies an officer who is to have responsibility for dealing with insurance claims. This will enable:

- claims to be dealt with in a consistent manner;
- a relationship to develop between the officer and LGIS staff;
- time delays to be minimised;
- issues/problems associated with a claim to be dealt with in a timely manner.

## Definition of an Incident and Claim

For the purposes of this document an **incident** and a **claim** are identified as follows:

- An **incident** is defined as any event which may give, or could have given rise to liability or loss;
- a **claim** is defined as any event which has caused loss or damage of an entity's property or loss, damage or injury for which the entity may be liable.

These definitions are consistent with those used by SAICORP.

## Claims

### Liability

LGIS provides cover for liability claims, which is broad by definition and incorporates:

- public liability
- professional indemnity (medical malpractice)
- professional indemnity (other)
- Directors and Officers liability

Public liability is commonly defined as:

*“liability arising from an incident where the insured is legally liable to pay compensation to a third party in respect of bodily injury or damage to property.”*

Professional indemnity is defined as:

*“liability arising out of a breach of the duty owed in a professional capacity for which the insured is legally liable.”*

Every person, company and legal entity has a legal duty to exercise reasonable care in the conduct of its activities and to avoid injury and/or damage to third party property. A breach of this duty of care may result in a successful claim for compensation.

Due to the many and varied activities of entities, the duty of care owed to the public is extremely broad and therefore entities may find themselves involved in claims for compensation in a wide range of areas.

Entities may be advised of claims through a variety of sources. These include staff, contractors, third parties, witnesses, relatives, friends or solicitors. Claims are usually notified by phone, letter or verbally. On occasions an entity may become aware of an incident through a media report. In other circumstances, the entity may not be aware of a particular incident until legal proceedings are issued through a solicitor.

If a claim is verbally advised, the claimant should be requested to put their claim in writing to the entity. This enables the allegations made by the claimant to be investigated, an appropriate response formulated and the matter reported to LGIS.

Once a claim is notified, LGIS will investigate the incident, in an effort to:

- obtain as much information about the incident as possible;
- establish the nature and extent of injuries and/or damage sustained;
- minimise the event;
- preserve evidence including CCTV footage of the incident, if available ;
- obtain photographs of the area where the incident occurred;
- establish the cause of the incident;
- determine the involvement of other parties in the matter (ie. contractors, private property owners, etc.)
- identify any hazard requiring appropriate action;

While these enquiries are being undertaken, it is important that the matter is reported to LGIS. An *Incident Report Form* is available for this purpose and is accessible from LGIS Intranet site.

The form is to be completed by an authorised person and is **not** to be provided to a claimant.

Incident Notification Forms are to be forwarded to LGIS, with the exception of medical malpractice matters: these are to be forwarded directly to the Department's contracted claims manager, SAICORP

As with all claims, it is important that they be notified as soon as practicable, but in any case, **within 30 days** of the event occurring.

## Claims

### Property Damage/Loss

As previously outlined, LGIS provides cover for loss and/or damage to property. LGIS will meet the cost of reinstatement, replacement or repair of an entity's property that is lost, damaged or destroyed through an event or occurrence but **excluding** normal wear and tear, lack of maintenance, damage by vermin or depreciation. Further details, including exclusions are outlined in the *Explanation of Insurance Arrangements* document

#### For claims greater than the excess (deductible)

A claim form (accessible from LGIS Intranet site) and associated information, including (where applicable):

- proof of asset ownership
- quotations for repair/replacement
- service reports
- copies of invoices for completed repairs/replacement, notated as paid

is to be forwarded to LGIS within 30 days of an event occurring. **Claims not notified within 30 days of the incident occurring will not be accepted.**

Where cost of repairs to damaged property is likely to exceed \$2,000, a minimum of two quotes must be obtained (except in circumstances where this is not appropriate; the matter to be discussed with LGIS). Approval to proceed with repairs will be given by LGIS following consideration of the quotes.

Where claims for damage to property are likely to exceed \$5,000, LGIS is to be notified immediately following the incident, enabling a loss adjuster to be appointed if necessary. Where a loss adjuster is appointed, the entity will be notified immediately.

In any event, property damage/loss claims, which exceed the excess (deductible), should be notified to LGIS prior to repairs or replacement being arranged. The only exception to this is where reinstatement must be undertaken immediately to minimise further loss, secure and protect premises (e.g. broken window, damaged alarm, failure of equipment (e.g. freezers)).

## **Claims**

### **Machinery Breakdown**

The procedure to be followed for machinery breakdown is the same as for property damage/loss.

It is imperative that claims be notified to the LGIS within 30 days of the event giving rise to the claim occurring.

**Claims not notified within 30 days of the incident occurring will not be accepted.**

## Claims

### Motor Vehicles

Motor vehicles not leased from Fleet SA are insured through the Government's motor vehicle insurance arrangements. Insurance has been arranged by SAICORP with Vero Insurance Ltd (VERO).

For the policy to apply, entities must ensure that LGIS is advised of details of all current motor vehicles required to be insured, that is:

- registration number
- make and model of vehicle
- date of purchase/lease
- motor vehicle engine number
- purchase value of the motor vehicle

When disposal and/or replacement of a motor vehicle occurs, LGIS is to be provided the relevant motor vehicle details on the day that this occurs.

In the event of a motor vehicle accident, a claim is to be notified to VERO by telephone following the accident. Entities have been provided with documentation outlining the claims procedure. The information is also available on LGIS' Intranet site.

Assessment of the damage and quotes for repair of the motor vehicle will be arranged by VERO.

Where third parties are involved in an accident, they are to be advised to lodge a claim for repair of their vehicle with their insurer. **At no time is liability to be admitted.**

Promptness in notifying VERO of an accident will avoid unnecessary delays in repairs being carried out on the motor vehicle.

## Claims

### Corporate Travel

LGIS provides travel insurance for employees of entities insured under the Program. This insurance covers both travel overseas and interstate and has been arranged by SAICORP with a commercial insurer.

Employees intending to travel overseas are required to submit details of their travel arrangements to LGIS **seven days prior** to the travel commencing. This will allow sufficient time for confirmation of cover to be provided to the person travelling.

Where a claim is to be made for lost baggage, health care, etc., a claim form is to be completed and forwarded to SAICORP. The claim form can be accessed from the LGIS Intranet site. Claims are to be made within 30 days of the completion of the travel.

## General Details

### Reporting Procedures

Entities should take the following steps in response to all claims which are received.

- If a claim is made verbally, the claimant should be requested to put details of the claim in writing.
- A claimant's letter should be acknowledged. If a claim is actually being made (as apposed to an incident simply being reported), the letter to the claimant should simply state that the correspondence has been received and that the claim has been referred to LGIS for investigation (SAICORP for medical malpractice matters).
- **Under no circumstances should liability be admitted.** Only when all the facts are known, can a decision on liability be made. In addition, the entity should not speculate or give any opinion to a claimant as to whether or not the entity is at fault.
- Photographs are invaluable. A number of photographs should be taken from different angles and from different distances from the photographed object or site. It is also quite helpful for another object to be included in the photograph (if applicable) which enables the perspective to be understood ie. a pen, matchbox, etc.
- CCTV footage of an incident, if available, is also invaluable as it assists LGIS in determining whether an entity is liable for an injury sustained by a third party. Every effort should be made to identify if CCTV footage is available following a reported injury by a third party and, if it is, it should be preserved for use in defence of a claim.

On receipt of notification of a serious or potentially serious incident, the entity should advise LGIS immediately by telephone, e-mail or facsimile of the incident and provide the following information:

- details of the incident, including location, circumstances, etc;
- description of the injury, loss or damage;
- whether a claim has been received or is anticipated;
- details of the prior involvement of the entity (if any).

Once this information is received, LGIS will be in a position to make a decision as to what further action/enquiries are required.

In respect to medical malpractice matters, any incident which is considered to potentially be a claim should be advised to SAICORP

## **Service of Summons**

A summons is a legal document which may be issued by a claimant's (plaintiff's) solicitor which requires the defendant to appear before a court to answer the claims of the claimant. The summons requires action to be taken within a specified time following the service of the summons. **It is therefore important that the time and date that the summons is received is clearly marked on the front page of the summons.**

The summons should then be forwarded immediately to:

- LGIS for all liability matters excluding medical malpractice;
- SAICORP for medical malpractice matters.

## **Excess (Deductible)**

Every entity which has an Agreement with LGIS is liable for the payment of an excess (deductible) on a settled claim. A deductible is the first part of any claim which the entity is liable to pay. The amount of the deductible that applies to the various categories of insurance is outlined in the *Explanation of Insurance Arrangements* document.

For claims which are finalised by LGIS above the relevant deductible, LGIS will confirm in writing the amount of the settlement paid and request reimbursement of the deductible if not already paid by the entity. This procedure applies where claims are not paid by the entity in the first instance.

In the event that LGIS finalises a claim below the deductible, the entity will be required either to pay the full amount of the settlement or reimburse LGIS for the full amount of the settlement. In these circumstances, LGIS will confirm the settlement paid, in writing and request reimbursement of the payment.

## **Discharge and Release Forms**

A Discharge and Release Form (DRF) is a formally binding document which reflects in writing the details of a settlement, the action which has been settled and a discharge from any further liability with respect to the claim.

Discharge and Release Forms are generally used where a third party is involved and is to be paid a settlement as resolution of their claim.

Unless a claim is settled through the court process, there should always be a signed DRF. Discharge and Release Forms can take a number of different forms depending on the circumstances of the incident, hence the terms of the DRF need to be tailored to meet the requirements of the particular situation. LGIS will generally provide DRF's for liability claims excluding medical malpractice; DRF's for medical malpractice matters are arranged by SAICORP.

## **Legal Governance and Insurance Services - Staff**

Staff and contact numbers of LGIS are as follows:

### **Director**

Prue Reid                      phone:    (08) 8226 6131  
   e-mail:    prudence.reid@ sa.gov.au

### **Senior Insurance Officer**

Catherine Robinson    phone:    (08) 8463 6096  
   e-mail:    catherine.robinson@ sa.gov.au

LGIS fax number:        (08) 8226 6955  
LGIS general e-mail    [HealthISUHealth@sa.gov.au](mailto:HealthISUHealth@sa.gov.au)

Intranet site              <http://in.health.sa.gov.au/lri/Default.aspx?tabid=282>

### **Postal Address:**

Legal Governance and Insurance Services  
SA Health  
PO Box 287, Rundle Mall  
ADELAIDE SA 5000