

Confidentiality Agreements in Claims Handling

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Introduction

- The importance of confidentiality in insurance claims
- English law protects information which is:
 - Confidential in nature
 - Disclosed in circumstances importing an obligation of confidence
- Parties can also enter express confidentiality agreements

Question 1: Have you worked on a claim where a confidentiality agreement was entered into?

- Yes
- No

Question 2: Think about the most recent confidentiality agreement you signed up to. On a scale of 1-3 how difficult was it to negotiate?

- 1 – easy, I signed up to the first draft
- 2 – moderate, we only needed a few adjustments
- 3 – difficult, it took a long time and many drafts to reach agreement
- Not applicable – I've never entered a confidentiality agreement

Question 3: Did you get legal advice on the confidentiality agreement?

- Yes, in-house counsel
- Yes, external counsel
- Yes, in-house and external counsel
- No
- Not applicable – I've never entered a confidentiality agreement

Confidentiality agreements – key questions



1. Who is giving the information?

2. Who is receiving the information?

3. What “confidential information” is being shared?

4. What restrictions should there be on use?

Confidentiality agreements – key questions



5. When can the recipient share the information?

6. What remedies are available if there is a breach?

7. How long should the obligations last?

8. Should the information be returned / destroyed?

Practical tips

- Work through practical examples
- Think about how the agreement might work at every stage of the claim
- Ensure all the right people are aware of their obligations
- If there is a breach, act promptly
- Consider whether confidentiality agreement could be entered into at placement – new NDA endorsement

Questions?