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After an Auto Accident: Understanding the Claims Process

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If you've been involved in an auto accident and need to file an insurance claim, this booklet will help you understand how the claims process works.

In the unfortunate event that you are involved in an auto accident involving injury or property damage, you will be required to file a claim with your insurance company.

The following information is designed to guide you through the claims settlement process.

This brochure is not a legal document and does not in any way modify or replace your automobile insurance policy. For more information on your specific situation, speak to your insurance agent, broker, or company representative.

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Report the Accident to Your Broker, Agent, or Insurance Company

When you are involved in an auto accident involving injury or property damage, you need to report it to your insurance agent, broker, or insurance company within seven days, regardless of who is at fault.

If you are unable to report the accident within seven days, report it as soon as possible after that. If you don't report your accident within a reasonable amount of time, your insurance company may not have to honour your claim.

Have the Facts in Hand!

Your insurance agent, broker, or company representative will likely ask you to supply some basic information. To help speed things up, try to have the following information with you when you call:

- the name of the registered owner's insurance company and his/her auto insurance policy number;
- the make, model, year, registration and licence plate number of the vehicle; and
- details regarding the accident, including:
 - the driver's name and driver's licence number (if the driver is not the registered owner);
 - the date, time and location of the accident,
 - the extent of any injuries;
 - the number of passengers involved, if any;

- the extent of damage to the vehicle;
- your description of the accident;
- the names and driver's licence numbers of the other drivers, as well as the names of their insurance companies and their auto insurance policy numbers;
- the licence plate and vehicle identification numbers of the other vehicles; and
- the name and badge number of the investigating police officer, if the accident was reported to the police.

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Read Your Policy

It's a good idea to sit down and thoroughly read your Ontario Automobile Policy (OAP 1). It provides specific details about your insurance coverages, your rights and your responsibilities under the contract.

If you do not have a copy of the Ontario Automobile Policy (OAP 1), ask your insurance agent, broker, or claims adjuster for a copy, or [download a copy](#).

The claims process will be easier to understand if you know the details of your coverage and your responsibilities.

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What Happens After You File a Claim with Your Insurance Company?

Once your claim is reported, you will be contacted by the claims adjuster assigned to your file.

In some cases the adjuster will want to meet with you in person; in other cases the entire claim will be handled over the telephone. To support your claim, you may also be required to complete a claim form, also known as a Proof of Loss form (a sworn statement in support of your claim).

Your claims adjuster will determine the extent to which the claim is covered by your insurance policy, explain the coverages provided by your policy, and help guide you through the entire claims process.

If you have any questions or if there is something about your policy or claim that you don't understand, ask your claims adjuster for clarification.

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How Does Your Insurance Company Assess Fault?

Someone is always determined to be at-fault in an auto accident, whether partially or fully.

Insurance companies must determine the degree of fault to be assigned to each driver for purposes of determining which property damage coverages apply to the accident, and to ensure that the premiums of the driver who was more than 25 per cent at-fault are adjusted appropriately.

The Insurance Act and the **Fault Determination Rules** made under the Insurance Act determine fault for an auto accident. The Fault Determination Rules are regulations put in place to help insurance companies provide consumers with prompt claims handling and consistent treatment.

After you report an accident to your insurer, the company will investigate the circumstances of the accident and then make a fault decision based on the Fault Determination Rules.

These rules:

- cover more than 40 accident situations, using diagrams to illustrate specific occurrences, can be applied to almost every possible road collision scenario; and
- are applied regardless of road or weather conditions, visibility, point of impact on the vehicles, or the actions of pedestrians.

Fault is allocated to each driver based on which accident scenario most closely resembles the accident. If the accident is not described by any of the scenarios, then fault is allocated according to the ordinary rules of negligence law.

Visit the ServiceOntario e-laws website to **[view or print a copy of the Fault Determination Rules](#)**.

How Do Police Charges or Convictions Affect Your Insurance Company's Decision?

If you are charged with an offence, you will not necessarily be found at fault for insurance purposes.

Similarly, if the police don't file charges, it doesn't necessarily mean that the insurance companies investigating the circumstances of the accident will not find one or more of the drivers involved at fault. For example, if a vehicle was unable to stop on an icy road and rear-ended another, a police officer may say that neither of the drivers was at-fault. Such a comment relates to the laying of charges and should not be taken as an opinion about how the Fault Determination Rules apply to an auto insurance claim. In a case like this, the insurer would apply the rule stating that a vehicle which rear-ends another is at-fault. On the other hand, with certain types of charges, the Fault Determination Rules will not apply, and fault will instead be determined according to the ordinary rules of negligence law.

Can Fault in an Auto Accident Be Shared?

Yes. The circumstances of an accident may show that more than one driver was partially at fault for insurance purposes.

How Does an At-Fault Accident Affect Me?

A driver can be anywhere between 100 per cent and zero per cent at fault. Any driver who is more than zero per cent at fault will have an at-fault accident on his or her insurance record.

If you are found more than 25 per cent at-fault for the accident, it is more than likely that your premium will go up on renewal.

To confirm how your rates will be affected, check with your insurance agent, broker, or company representative.

Note: When you lend your vehicle to someone, you are also lending him or her your insurance. If the individual you lent your vehicle to has an accident and is found to be more than 25 per cent at-fault while using your vehicle, the accident will go on your insurance record, and your auto insurance premium will go up.

What Can You Do If You Disagree with Your Insurance Company's Assessment of Fault?

If you are dissatisfied with your insurance company's decision on fault, and believe that the decision does not accurately reflect the circumstances of the accident, speak to the claims adjuster handling your file. Ask him or her what rule in the Fault Determination Rules has been applied in your case.

Bring any new information to the attention of your insurance company. Generally, an insurance company will revise or reconsider its decision on fault only if additional, relevant information is provided. For example, if an accident occurred in which each driver stated that the other driver had gone through a red light, an insurance company would have little choice but to assign fifty-fifty fault. However, if an eyewitness confirmed which driver went through the red light, an insurance company could review its decision.

If your insurance company refuses to revise its decision and you still disagree, contact your company's complaint officer. He or she will guide you through the company's complaint-handling procedures.

Refer to the section in this brochure entitled "If You Have a Complaint" for more information on how to file a complaint with your insurance company.

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What to Expect If Your Vehicle Has Been Damaged

The amount you receive for your damage claim will depend on the extent to which you are at fault for the damage, as well as the type of coverages you purchased.

Speak to your claims adjuster regarding your specific situation. He or she will be able to outline the precise coverages that are available to you, as well as any deductibles that may apply.

Claiming with Mandatory Coverage Only

In Ontario, your mandatory coverage includes Direct Compensation-Property Damage (DC-PD). Under a DC-PD claim, you can to the extent you're not at fault recover for damage to the vehicle and the cost of a temporary rental vehicle (Transportation Replacement Coverage). You can also recover costs for damaged personal contents that are carried in the vehicle, less the deductible you arranged with your insurance company.

For example, if you were 75 per cent at-fault for the accident — and therefore 25 per cent not at fault — your company will pay 25 per cent of your loss, less any deductible.

If your accident is with a vehicle from outside Ontario, DC-PD Coverage does not apply unless the insurer of the out-of-province vehicle has signed an agreement with Ontario to settle claims under the DC-PD rules. If an agreement does not exist, you will have to sue the out-of-province vehicle owner and the driver to recover your loss. Your insurance company will know if the out-of-province insurance company has signed an agreement.

If the other vehicle involved in the accident does not have insurance, you may claim under the mandatory Uninsured Motorist Coverage of your policy. If you claim under this coverage, you must be able to identify the owner or driver of the other vehicle involved in the accident, and you will be covered for damage to your vehicle and contents up to \$25,000, less the first \$300 of the loss.

Claiming with Mandatory Plus Optional Coverage

Specified Perils Coverage: If you purchased Specified Perils Coverage, your insurance company will pay for damage to your vehicle caused by one of the following perils: fire; theft or attempted theft; lightning; windstorm, hail, or rising water; earthquake; explosion; riot or civil disturbance; falling or forced landing of an aircraft or parts of an aircraft; or the stranding, sinking, burning, derailment, or collision of any kind of transport in, or on which, an insured vehicle is being carried on land or water, regardless of fault, less the deductible you chose at the time you purchased the coverage.

Comprehensive Coverage: If you purchased Comprehensive Coverage, your insurance company will pay for the repair or replacement of your vehicle due to a non-collision loss, including those perils listed under Specified Perils, falling or flying objects, missiles, and vandalism, regardless of fault, less the deductible you chose at the time you purchased the coverage.

Collision or Upset Coverage: If you purchased Collision or Upset Coverage, your insurance company will pay to fix or replace your vehicle if it is damaged in an accident, regardless of fault, less the deductible you chose at the time you purchased the coverage.

For example, if your vehicle is hit while parked and the responsible driver does not remain at the accident scene and cannot be identified, you will be reimbursed for your vehicle repair costs only if your policy includes Collision or Upset Coverage.

Collision or Upset Coverage also pays to fix or replace your vehicle if a driver who was not insured, or cannot be identified, damaged your vehicle.

All Perils Coverage: If you purchased All Perils Coverage, your insurance company will pay for all losses noted above under Collision or Upset and Comprehensive Coverages, regardless of fault, less the deductible you chose at the time you purchased the coverage.

If you had personal items that were stolen or damaged while in your vehicle, your policy may not pay for them, or may pay only a limited amount. This includes any clothing, luggage, and sporting equipment, as well as any electronic accessories and equipment, other than factory-installed equipment. However, if you have a homeowners, condominium, or renters insurance policy, your personal property may be covered under that policy. Call your broker, agent, or insurance company representative for more information.

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Does Your Insurance Company Have to Provide You with a Rental Vehicle?

It depends. It's best to ask your claims adjuster if you're covered before renting a replacement vehicle.

If the other driver's insurance company accepts complete fault for the accident, you will be entitled to a replacement vehicle (for a reasonable length of time) while your vehicle is being repaired.

However, if you are found to be partially or completely at-fault for the accident, and did not purchase optional Loss of Use (Transportation Replacement) Coverage, the cost of a rental vehicle may not be fully covered.

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How Does Your Insurance Company Decide Whether to Repair Your Vehicle or Declare It a Total Loss

When you make a claim for damages to your vehicle, your insurance company will pay the lower of the following:

- the cost to repair the loss or damage, or
- the "actual cash value" of your vehicle at the time it was damaged.

"Actual Cash Value" (ACV) = The amount necessary to replace your vehicle with a comparable used vehicle. (The total mileage, age, overall condition and average retail selling price of your vehicle will all be considered in determining its actual cash value.) + applicable sales tax.

Note: If you've recently completed work on your vehicle that you think would increase its actual cash value, tell your claims adjuster. He or she may ask you to provide receipts to help the insurance company determine your cash settlement.

Recognize that repairs needed to maintain your vehicle in good running order may not increase the actual cash value of your vehicle.

Your insurance company will not pay more to repair your vehicle than its actual cash value at the time it was damaged, less the deductible specified on your Certificate of Automobile Insurance.

Your insurance company will likely decide to treat your vehicle as a total loss and offer you a cash settlement if the necessary repairs would cost more than the actual cash value of the vehicle. In most cases, it will be your responsibility to purchase a replacement vehicle.

Note: An exception to the above would be if you purchased a removing depreciation deduction endorsement. This can be added to your auto insurance policy for a new vehicle; it is not generally available on used vehicles. The period of coverage is usually between 2 to 5 years. This optional endorsement ensures that in the event your new vehicle is written off, you will be reimbursed for the total list price of the new vehicle and not the depreciated value. Consumers purchasing a new vehicle should consult their insurance representative on the coverage choices available.

What Can You Do If You Haven't Been Offered a Fair Cash Settlement?

Do your homework. Check local newspaper classified ads and "auto trader" magazines to find the asking price for similar vehicles. Although these are asking prices, not the selling prices, this should give you an idea as to what your vehicle may be worth. Write down the prices of five vehicles similar to yours and then take the average. If this average is significantly higher than the cash settlement being offered to you by your insurance company, speak to your claims adjuster.

If you still disagree over the value of the vehicle, or its contents, or the nature, amount or cost of any repairs, the matter can be settled by an appraisal under the Insurance Act. Your request for an appraisal must be made in writing, and your insurance company must participate. The insurance company can also make this request in writing, but you have the choice whether or not to agree to participate. For this process, each side will appoint an appraiser, and both appraisers will either agree on a value, or if they disagree, will both agree to appoint an umpire who will make a final decision on the matter.

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Getting Your Vehicle Repaired

Selecting a Repair Shop

As long as your insurance company approves the estimate, you may have your vehicle repaired at the repair shop of your choice.

Your insurance company may suggest you bring your vehicle to one of their "preferred" body shops. You may find using one of their "preferred" shops easier, because it puts the onus on your insurance company to make sure that the work is done satisfactorily.

"Betterment" charges may apply if the repairs to your vehicle make it significantly better than it was before the accident!

It is your insurance company's obligation to return your vehicle to its pre-accident/loss condition.

When repairs made to your vehicle end up giving you a vehicle in better condition than you had before the accident, the difference is known as "betterment." Since the premise of insurance does not allow the insured to profit or "better" from his or her loss, your insurance company has the right to ask you to contribute towards this betterment.

For example, if a rusty door panel that had been in a collision were to be replaced with one that is not rusty, you may be expected to contribute financially towards the betterment of the vehicle.

For more information regarding your specific situation, speak to the claims adjuster handling your file.

Does your insurance company have the right to replace parts in your vehicle with used parts when it is being repaired?

As stated in your insurance policy, your insurance company has the right to repair, rebuild, or replace any damaged parts with other parts "of like kind and quality." This means that if you damage the front fender of your five-year-old vehicle, your insurer can replace the damaged fender with a used one of like kind and quality as the original.

If your vehicle is less than a year old, your insurance company will likely use new Original Equipment Manufacturer (OEM) parts to replace any damaged parts.

Regardless of the age of your vehicle, most insurance companies will replace damaged safety-related parts with new ones. For example, your insurance should replace a deployed air bag with new OEM air bag replacement parts.

What are "aftermarket" replacement parts?

Your insurance company may also use "aftermarket" replacement parts approved by the Certified Automobile Parts Association (CAPA) that meet or exceed Original Equipment Manufacturer specifications.

Aftermarket parts are overruns from makers of original parts or from manufacturers who specialize in replacement vehicle parts.

Note: Your insurance company will not cover the following repairs unless they result from a peril for which you are covered or are required by fire, theft, or vandalism and your policy covers these perils:

- tires;
- consisting of, or caused by, mechanical breakdown of any part of the vehicle; or
- consisting of, or caused by rusting, corrosion, wear and tear, freezing, or explosion within the engine.

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You May Be Responsible for Paying Certain Deductibles

When you file a claim for damage or loss, the payment made by the insurance company may be subject

to a deductible, or the amount of the claim you will be responsible for paying yourself.

You can expect to pay your **full** deductible unless the accident was not your fault or was only partially your fault.

Take the following example:

You are involved in an accident. Your vehicle's actual cash value is determined to be \$12,000. To repair your vehicle, it would cost \$7,000. Since the necessary repairs cost less than the actual cash value of your vehicle, your insurance company decides to repair your vehicle rather than declare it a total loss.

If you are 100 per cent at-fault for the accident, the cost of repairing your vehicle will not be covered under your Direct Compensation - Property Damage Coverage. But if you purchased the optional Collision or Upset Coverage with a \$500 deductible, your insurance company will pay \$6,500 towards repairing your vehicle (\$7,000 less your \$500 deductible). This means you will be responsible for paying your \$500 Collision or Upset deductible.

On the other hand, if the other driver can be identified, is insured, and is found to be totally at-fault for the accident, your insurance company will cover the total cost of repairing your vehicle (\$7,000) under your Direct Compensation - Property Damage Coverage, so long as your Direct Compensation - Property Damage deductible is zero dollars.

Speak to your claims adjuster about your specific situation.

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What to Expect If You've Been Injured

Statutory Accident Benefits Coverages are provided by law under every auto insurance policy in Ontario. Because the regulations (Statutory Accident Benefits Schedule, or SABS) are provincially mandated, the coverage provided is standard among insurance companies.

Statutory Accident Benefits provide compensation, regardless of fault, if you, your passengers, or pedestrians suffer injury or death in an auto accident.

For example, if you are injured in an auto accident, you may be entitled to the following accident benefits:

- **Income Replacement:** This benefit compensates you for lost income.
- **Non-earner:** This benefit provides compensation if you are completely unable to carry on a normal life and do not qualify for an Income Replacement or Caregiver benefit.
- **Caregiver:** If you qualify for this benefit, it provides compensation for some expenses incurred when you cannot continue as the main caregiver for a member of your home who is in need of care.

- **Medical:** This benefit pays for medical expenses incurred when you are injured.
- **Rehabilitation:** This benefit pays for rehabilitation expenses incurred when you are injured.
- **Attendant Care:** This benefit compensates you for some of the expense of an aide or attendant.
- **Compensation for Other Expenses:** These benefits pay for some other expenses such as the cost of family visiting you during treatment or recovery. It may also pay for some housekeeping and home maintenance, the repair or replacement of some items lost or damaged in the accident, and some lost educational expenses.

If you die as a result of the accident, members of your family may also be entitled to the following benefits:

- **Death:** This benefit pays money to members of your family.
- **Funeral:** This benefit pays for some funeral expenses.

A full description of the accident benefits that may be available to you can be found in the [Ontario Automobile Policy](#).

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Applying For Accident Benefits

When applying for accident benefits, ask your claims adjuster to outline the procedures you must follow.

As a first step, he or she will provide you with an Accident Benefits Application Package.

This package should include five forms.

FORM 1: [Application for Accident Benefits \(OCF-1\)](#)

FORM 2: [Employer's Confirmation of Income \(OCF-2\)](#)

FORM 3: [Disability Certificate \(OCF-3\)](#)

FORM 4: [Permission to Disclose Health Information \(OCF-5\)](#)

FORM 5: [Treatment Confirmation Form \(OCF-23\)](#)

In order for your accident benefits claim to be processed, you will need to complete all those sections of each form that pertain to your situation.

Note: To ensure that your accident benefits claim is handled quickly, make sure you:

- print clearly, using blue or black ink;

- double-check that your forms are complete and that you have not missed any sections before submitting them;
- sign and date the forms; and
- ask your employer, health practitioner, or anyone else submitting information on your behalf to fill out their forms in full and return them as quickly as possible.

Contact your agent or claims representative if you have any questions or have difficulty filling out your Accident Benefits Application Package.

Once your insurance company has received and reviewed your Accident Benefits Application Package, it will inform you in writing of which accident benefits you can expect to receive and which portions of your claim, if any, the company is not prepared to pay for.

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If You Don't Have Your Own Auto Insurance

If you **don't** have your own auto insurance or are **not** listed on someone else's policy, but have been injured in an auto accident, you can still make a claim for accident benefits. The circumstances will determine which insurance company is responsible for paying for the accident benefits you may be entitled to.

The chart below will help you to determine which insurance company to send the Accident Benefits Application Package to, if you don't own or lease a vehicle and are not listed on someone else's policy.

Your Situation/Circumstance	Where to Send the Application
You were driving a company vehicle.	The insurance company that insures the company vehicle.
You were a passenger in someone else's vehicle when injured	The insurance company that insures the vehicle you were a passenger in.
You were a passenger in an uninsured vehicle and there was more than one vehicle involved in the accident.	The insurance company of an insured vehicle involved in the accident.
You were a pedestrian or cyclist.	The insurance company of the vehicle that hit you.
None of the above.	The Motor Vehicle Accident Claims Fund (MVACF); see below for more details.

If you do not have auto insurance, are not listed on someone else's policy, and no other vehicle involved in the accident has auto insurance or can be identified, you may be entitled to obtain accident benefits

from [Ontario's Motor Vehicle Accident Claims Fund \(MVACF\)](#).

MVACF is considered to be the "payer of last resort," providing accident benefits, such as income replacement, medical rehabilitation, and attendant care benefits, to people injured in auto accidents when no auto insurance policy exists to respond to the claim.

Note: While MVACF protects innocent parties injured in auto accidents, the persons who cause those accidents are still held accountable. MVACF takes legal action against at-fault uninsured drivers to recover the full cost of judgments paid out by MVACF.

Get more information on making a claim through MVACF, or write to:

Motor Vehicle Accident Claims Fund
Ministry of Government and Consumer Services
5160 Yonge Street
Suite 805, Box 28
Toronto, Ontario M2N 6L9

Tel: 416-250-1422
Toll-free: 1-800-268-7188
Fax: 416-590-7076
E-mail: mvacf@ontario.ca

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What Can You Do If You and Your Insurance Company Disagree about Your Entitlement to Accident Benefits, or the Amount of Benefits?

If you can't agree with the insurance company about whether you are entitled to a benefit or the amount of a benefit, you can apply to [Automobile Accident Benefits Service \(AABS\)](#) for help in resolving your dispute.

AABS is a division of the Licence Appeal Tribunal (LAT), a tribunal that is part of the Safety, Licensing Appeals and Standards Tribunals Ontario (SLASTO) cluster. The Tribunal is independent from the government and the insurance companies.

AABS helps people who are hurt by a motor vehicle accident, and have had their claim for accident benefits denied by an insurance company. Drivers, passengers, pedestrians or family members of a person who is injured or dies may all have a claim.

AABS works with individuals and insurance companies to help them quickly reach a settlement. This can happen through a meeting, called a case conference, and if that doesn't result in a settlement, then there is a hearing led by an independent adjudicator, who will make a decision that must be followed.

For more information, [contact AABS](#).

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Exclusions

Your insurance company is allowed to deny payment of Income Replacement, Non-earner and Compensation for Other Expenses to:


- any driver who knew, or should reasonably have known, that he or she was driving the vehicle without valid insurance;
- any driver without a valid driver's licence;
- any driver who was specifically excluded from driving under your insurance policy;
- any driver or passengers who knew, or should reasonably have known that the vehicle was driven without the owner's consent;
- anyone who made or knew about a material misrepresentation that induced the insurance company to provide you with auto insurance; and
- anyone who was engaged at the time of the accident in an act for which he or she is convicted of any criminal offence, whether or not the offence is related to the operation of a vehicle.

Similarly, if you are charged with a Criminal Code offence, your insurance company is also allowed to deny you payment of the above SABS benefits, pending the outcome of the charges.

More importantly, if you are found guilty of committing a criminal offence, your insurance company may refuse to sell you auto insurance or require you to pay significantly higher premiums for insurance in the future.

If you suspect that you may be a victim or target of a scam or fraud, you can help put an end to the scam or fraud by reporting it.

As a first step, report the matter to police. You can also make a report to FSCO's Fraud Hotline. Go to www.fsco.gov.on.ca/TipNow or call 1-855-5TIP-NOW. Tips to FSCO's Fraud Hotline can be anonymous.

You can also submit an anonymous tip to **Crime Stoppers**  (1-800-222-TIPS).

If you want legal advice, the **Law Society of Upper Canada**  has services to help you find a legal professional.

In addition to the police, there are a number of other **organizations** that you can contact for help.

If You Have a Complaint

If you are not satisfied with how your claim is being handled, there are steps you can take. Improved measures have been put in place to help consumers get their insurance complaints resolved more quickly. Among them is the establishment of a Complaint-Handling Protocol by all insurance companies licensed to operate in Ontario. How the complaint process works varies from company to company. Your company representative (agent, broker, claims adjuster, or customer service representative) will be able to provide you with specific information about the procedures to follow should you have a complaint.

In addition, each company has a Consumer Complaint Officer who oversees the complaint-handling process. The Consumer Complaint Officer is an employee of your insurance company responsible for ensuring that your complaint is addressed. If you are unable to obtain information about the protocol from your company representative, or if you are having difficulty obtaining a response outlining your company's position, then you should contact your company's Consumer Complaint Officer.

For your convenience, FSCO has compiled a list of all company Consumer Complaint Officers. This list is available online at: www.fSCO.gov.on.ca. If you are unable to find the name of your company's Consumer Complaint Officer on this list, you should direct your complaint directly to the Chief Executive Officer of your insurance company, or contact FSCO at: (416) 250-7250, Toll-free: 1-800-668-0128.

If you are unable to resolve your complaint with your insurance company, your company is obligated to provide you with a letter stating its final position on your complaint. The company's Consumer Complaint Officer will ensure that you receive a letter stating the company's final position, as well as providing you with the name and details of an independent Ombudsman organization that can review the complaint if you still do not agree with the company's final position.

If you decide to write to the independent Ombudsman organization referred to in your company's final position letter, make sure to describe your complaint and why you disagree with the company's position. Remember to include your company's letter and any documentation that relates to your complaint.

Upon receipt of your unresolved complaint, a Complaint Officer at the independent Ombudsman organization will review and respond to your complaint.