



BUSINESSSENSE

Rules of the game: ICOBS and UNFCOG

You might be wondering what on earth that headline means. Well, with my article in last month's *bodyshop* explaining the basics of "The Game", I hope I am providing some insight into the world of insurance and how it is regulated. And this month's piece is an absolute JEM – as in Joy of Educating Many.

Both the repair industry and consumers say they feel completely bullied by the insurance industry and that insurers apparently do whatever they want and get away with it.

That only happens because we let them. I fully understand the response's that statement will create. This is why education is key, this is why I have presented what I have over this year to help not only give an overview, but a much more informed view. The tools are in place to hold insurers to task.

What tools?

Last month I spoke of the "statutory obligation under FSMA2000" to "Treat Customers Fairly" (TCF) and "Principles of business" (PRIN). If you really want to stop feeling bullied, hold insurers accountable. But how?

The Insurance Conduct of Business Standards (ICOBS) are the "specific" rules relating to insurance. This stipulates how insurers operate and what is expected.

How is this relevant to us as a bodyshop? ICOBS specifies how an insurer deals with consumers. You having this knowledge means you can pass it on to your customers to identify where they are being "misinformed" "misled" "mistreated".

For example, the consumer might advise they want to use you to repair their vehicle, and the insurer advises they cannot, or that if they do, an increased excess applies, or "we will only pay what we would pay at our own repairer".

The specific regulations I refer to in this situation is ICOBS 2.5 – the customers best interests rule (<https://www.handbook.fca.org.uk/handbook/ICOBS/2/5.html>).

ICOBS 2.5 Acting honestly, fairly and professionally, exclusion of liability, conditions and warranties

The customer's best interests rule

ICOBS 2.5.-1R01/10/2018

A firm must act honestly, fairly and professionally in accordance with the best interests of its customer.

[Note: article 17(1) of the IDD]

Please click on the link above and read all, as space limitations restrict posting in full.

Not only does an insurer have to take into account the "customers' best interests", it also cannot put up "post-sale barriers".

UNFCOG: The Unfair Contract Terms and Consumer Notices Regulatory Guide

This is an FCA regulation but stems from the "Unfair terms and conditions in consumer contract regulations 1999", which is now part of the 2015 Consumer Rights Act (<https://www.legislation.gov.uk/ukxi/1999/2083/contents/made>). It states:

Unfair Terms

5. (1) A contractual term which has not been individually negotiated shall be regarded as unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer.

(2) A term shall always be regarded as not having been individually negotiated where it has been drafted in advance and the consumer has therefore not been able to influence the substance of the term.

(3) Notwithstanding that a specific term or certain aspects of it in a contract has been individually negotiated, these Regulations shall apply to the rest of a contract if an overall assessment of it indicates that it is a pre-formulated standard contract.

(4) It shall be for any seller or supplier who claims that a term was individually negotiated to show that it was.

(5) Schedule 2 to these Regulations contains an indicative and non-exhaustive list of the terms which may be regarded as unfair.

Just because something is in a contract does not necessarily mean it is legal. Think how this "may" apply to increased excess, steerage or any other barrier an insurer might want to place in front of your customer.