

**Insurance Fraud Reporting Protocol\***

**Summary**

The Insurance Fraud Reporting Protocol available to Alliance members is a very welcome development as it provides a designated contact office within An Garda Siochana (AGS) for the initial reporting of all suspected cases of insurance fraud. An explanatory MOU and reporting templates are available from your representative body and these should be reviewed carefully prior to making a complaint. This document captures some of the key points of the protocol but is not intended as a substitute for reading the MOU.

**Key Points**

1. **Introduction**
	* The protocol document (MOU) sets out the process for the reporting of suspected insurance fraud by the Alliance for Insurance Reform, Insurance Ireland and other interested parties to the Garda National Economic Crime Bureau (GNECB).
	* It is intended to ensure a co-ordinated, uniform and consistent approach to reporting, recording, assessment and investigation of suspected Insurance Fraud offences.
2. **The Insurance Fraud Coordination Office (IFCO) and Reporting Suspected Fraud**
* **Insurance Fraud Coordination Office (IFCO)** - IFCO is a dedicated unit of An Garda Síochána specifically entrusted to deal with complaints of insurance fraud.
* The **reporting person/entity** should, when there are reasonable grounds/evidence to support a suspicion that insurance fraud has been or is being committed or attempted, report the matter to the IFCO at GNECB in accordance with the guidelines. The reporting person/entity should request persons/entities in control of vital evidence/data such as CCTV to retain such evidence if it is believed such evidence/data is necessary for ‘preventing, detecting, investigating or prosecuting criminal offences’ as set out in Section 41 of the Data Protection Act 2018, ‘Processing for purpose other than purpose for which data collected’. The reporting person / entity will be given the Pulse Incident number for reference and details of the Garda area responsible for the investigation when it is assessed that an investigation is merited.
* The reporting person/entity must submit reports to the Insurance Fraud Coordination Office as set out at 5.2 in the MOU (the designated contact details and templates to be used are referenced below).
* If the threshold for the commencement of a criminal investigation is not met, the reporting person/entity will be so informed with the rationale for the decision. The reporting person/entity may submit additional information at a later stage and request a review of the decision.
* **When should a formal report be made to GNECB?**

The reporting person/entity should, when there are reasonable grounds/evidence to support the suspicion that insurance fraud has been or is being committed or attempted, report the matter to the IFCO at GNECB.

* **How are reports to be made?**
	+ All complaints of insurance fraud (as set out at 5.1 of the MOU) should be reported to the IFCO at GNECB for assessment and/or investigation by encrypted email to **GNECB.IFCO@garda.ie**, via a secure file share service if available or in hard copy to the **Insurance Fraud Coordination Office, GNECB, Harcourt Square, Dublin 2 D02 DH42. Tel: 01 6663740.** Electronic data must NOT be supplied in ZIP files.
* **Reporting Suspected Insurance Fraud to the IFCO**
	+ All reports will be made on the standard report form available from the IFCO at GNECB.IFCO@garda.ie depending whether the suspected fraud is motor related, personal injury related other than motor, or related to a general claim for compensation.
	+ The reporting person/entity must as appropriate
		- Complete the:

- Garda Motor Insurance Fraud Report form - (Form IFCO 1), or

- Garda Personal Injury Insurance Fraud Report form - (Form IFCO 2), or

- Garda General Insurance Fraud Report form - (Form IFCO 3)

* + - Provide a report on the incident and the rationale to support the suspicion that the claim submitted constitutes insurance fraud, in the Details of the Incident section of the form.
		- Provide all available evidence to support the allegation of insurance fraud, or an outline if it is not transferrable by email (e.g. CCTV / dashcam footage).
		- Appoint a liaison person to AGS for the duration of the investigation and provide their contact details.
	+ Each report form must be completed in full and supported by an evidence pack if it is to be progressed to the Assessment Phase at the IFCO. The IFCO will assess the report to determine whether the commencement of a criminal investigation is merited.
1. **Receipt of Complaint**

**When criminal investigation is NOT commenced**

If the threshold for the commencement of a criminal investigation **is not met**, the reporting person/entity will be so informed with the rationale for the decision. The reporting person/entity may submit additional information at a later stage and request a review of the decision.

**Note:** The standard of proof for a criminal prosecution is ‘*proof beyond a reasonable doubt’*. An Garda Síochana will only commence a criminal investigation where there is credible and admissible evidence that a criminal offence has occurred. Reporting persons / entities must be conscious that the civil standard of proof is ‘*proof on the balance of probabilities*’ which is a much lower standard than the criminal standard.

**When a criminal investigation IS commenced**

If the evidential threshold required for the commencement of a criminal investigation **is met** the IFCO will determine where the investigation should be recorded and conducted. The IFCO will record the complaint/report on Pulse.

The report and supporting evidence will be forwarded to the relevant area for investigation.

The reporting person/entity will be provided with the Pulse incident number for reference and the Garda area to which the investigation has been assigned.

**Note:** In the context of making reports of criminal offences to An Garda Síochána, it is criminal offence to make a clearly false report to the organisation.

**Note:** The MOU document provides useful guidelines on how to submit detailed complaints, the handling of possible evidence and preserving CCTV.

1. **Definition of Insurance Fraud**

There is no particular legal definition for insurance fraud. However, the offence of Deception as defined in Section 6 of the Criminal Justice (Theft and Fraud Offences) Act 2001 provides a broad definition that would fit with what is commonly referred to as ‘insurance fraud’. This offence is punishable on conviction by up to 5 years imprisonment.

* 1. Section 6 (1) “A person who dishonestly, with the intention of making a gain for himself or herself or another, or of causing loss to another, by any deception induces another to do or refrain from doing an act is guilty of an offence.”

The falsification of a personal injury claim for compensation by exaggeration of the incident, the injury suffered, by staging an accident/incident or by supplying false information in support of a personal injury claim could constitute ‘insurance fraud’. In insurance fraud cases, the claimant is deceiving or attempting to deceive a person or entity to pay compensation to which the claimant would not be entitled but for the deception. According to the Section 1(2) of the 2001 Act a person deceives if he or she-

a) Creates or reinforces a false impression, including a false impression as to law, value or intention or other state of mind.

b) Prevents another from acquiring information which would affect that person judgement of a transaction.

c) Fails to correct a false impression which the deceiver previously created or reinforces or which the deceiver knows to be influencing another to whom he or she stands in a fiduciary or confidential relationship.

Other potential offences are listed in the MOU and include perjury, providing false/misleading information on Affidavit, damaging property with intent to defraud etc.

**Note:** It must be noted that ‘insurance fraud’ only becomes a suspected offence when a person or entity actually submits a claim for compensation. It might be suspected that a person has staged an accident or a slip, trip or fall, but that would not constitute ‘insurance fraud’ until they actually submit a claim for compensation that appears to be fraudulent, whether that is to the Personal Injuries Assessment Board or to an Insurance Company, or other responsible entity. In such cases, the gathering of evidence should begin immediately, to defend a civil claim and for possible use in a criminal investigation.

However, if an incident does occur, an interested party could consider making a report to An Garda Siochana, prior to any claim being made if there is evidence of other criminality, such as deliberate criminal damage to property.

The MOU should be read in full before a complaint is submitted.

**\*While the Alliance has made every attempt to ensure this information is reliable and accurate, we do not accept responsibility howsoever arising for any errors or omissions, or for any liability howsoever arising from the use of the information or from the results obtained from the use of the information.**