

Monitoring Priorities Consultation 2023-24

Response Paper

June 2023



GENERAL INSURANCE
Code Governance Committee

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1 Executive Summary

The General Insurance Code Governance Committee (Committee) initiated its first open consultation in November 2022 to seek input from stakeholders on the development of our monitoring agenda and priorities for 2023-24.

We were pleased to receive ten submissions in response and were encouraged to see engagement from a range of stakeholders. We greatly appreciate the effort made by our stakeholders to respond to our consultation.

The Committee has carefully considered the issues raised in the submissions and acknowledge that some issues require further exploration with stakeholders. While the Committee understands that addressing certain issues such as claims handling delays require a sustained and long-term approach, the feedback received will guide our priorities moving forward.

The issues and concerns raised by stakeholders fell broadly into three themes:

- Claims handling practices
- Supporting vulnerable consumers
- Supporting consumers experiencing financial hardship

The Committee notes the recommendations made by stakeholders for the Committee's monitoring work.

As outlined in this paper, there are several ways for the Committee to monitor or explore the issues and concerns expressed in the submissions.

The Committee will aim to ensure that its 2023-24 monitoring agenda sufficiently covers those issues that are serious or systemic or cause the most consumer harm. This approach is in line with our [Priority Monitoring Framework](#) (PMF) which helps us manage our priorities and direct our efforts towards areas where there is high consumer detriment or where there are systemic problems.

2 Summary of Responses

This response paper highlights the key issues that arose out of the submissions to the Committee's consultation. The purpose of this report is not to provide a comprehensive summary of all responses received or a detailed report. Rather, we have focused on the key issues identified in the submissions in this report.

2.1 Overall response

The Committee received ten written submissions in response to the consultation. It was pleasing to see engagement from a range of stakeholders and we are grateful to the respondents for taking the time to provide us their valuable comments.

A list of respondents is listed in the [appendix](#) to this report.

Respondents were overwhelmingly positive towards the Committee's new approach of inviting submissions and the opportunity to contribute to the development of its 2023-34 workplan and monitoring priorities.

The Insurance Council of Australia (ICA) expressed appreciation of the consultation process as a valuable new initiative for the Committee to gather insights on potential areas of focus for thematic inquiries and guidance papers, as well as how the Committee could enhance Code compliance more generally. They welcomed this new approach as a better way to understand stakeholders' concerns.

Two submissions were provided to the Committee on a confidential basis. The Committee has published the eight non-confidential submissions on our website alongside this response paper.

2.2 Key themes

The Committee received a range of views from stakeholders, which highlighted three key themes of concern:

- claim handling practices, including delays, not limited to severe weather events;
- treatment of vulnerable consumers; and
- financial hardship.

One or more submissions in response to the consultation paper identified these three main areas of concern.

2.2.1 Claim handling practices

Delays

Six submissions raised concerns regarding claims handling delays and recommended that the Committee include this area for monitoring in 2023-24. This sentiment is consistent with breach data¹ which points to claims handling as the top source of breaches over the past five years. The Committee also notes that the top cause of breaches of the claims handling standards in the Code is "processes and procedures not followed".²

¹ Breach data from [GICGC Annual Report 2021-22](#) and [Industry Data Report FY22](#)

² Refer the CGC's 2021-22 [Annual Data Report](#).

The Australian Financial Complaints Authority's (AFCA) submission presented their data showing a significant surge in claims handling delays complaints during the current financial year. However, AFCA acknowledged this particular issue has been among the top three most frequently complained issue for several years. AFCA recommended exploring whether insurers are meeting their communication timeframes and if they are communicating adequately with their consumers.

Both consumer organisations Consumer Action Law Centre (CALC) and Financial Rights Legal Centre (FRLC) highlighted that delays are not only related to claims during a catastrophe, but also other claims that occur soon before or after it, expressing concerns that there may be underlying problems with claims handling in general.

CALC encouraged the Committee to work on identifying the systematic barriers that give rise to poor claims handling and assess whether insurers are adequately resourced to the manage the high volume of claims.

FRLC urged the Committee to closely examine whether insurers are meeting their commitments under Part 8: Making a claim of the Code. FRLC stated that *“almost one in three extreme weather event services involved an issue with respect to insurers asserting maintenance, wear and tear or defects as a reason to either deny or limit a claim.”*

Yarra Ranges Council, a local government area in Victoria, located in the outer eastern and north-eastern suburbs of Melbourne shared in their submission, the experience of their residents with insurers following the significant storms and flooding in June 2021. Yarra Ranges Council stated that *“some residents have seen delays in communication from their insurance providers for up to 6 months, they have seen gaps in getting 2nd and 3rd quotes of up to 8 months. All the while this is happening residents are living in temporary housing.”* Yarra Ranges Council highlighted these inefficiencies have real impact on residents, leading to stress and uncertainty. They expressed the view that there should be greater clarity and certainty regarding the claims process, along with a reduction in timelines.

Yarra Ranges Council also provided a distressing case of an elderly, recently widowed resident whose home was partially damaged by the storm. The insurer requested the resident restump their home at a cost exceeding \$100,000 to have her roof repaired. The widow was unable to afford the restumping and due to the heightened emotional trauma, listed the property for sale.

Use of policy exclusions

Three submissions expressed concerns with the use of broad policy exclusions – such as pre-existing defects, lack of maintenance or ‘wear and tear’ - to deny claims, when the evidence itself was either incorrect, ambiguous or did not establish a clear link to the resultant loss or damage.

FRLC noted that almost one in three extreme weather event services they provided to clients involved an issue with respect to insurers asserting maintenance, wear and tear or defects as a reason to either deny or limit a claim.

WEstjustice cited a case where their client was denied a claim, despite clear evidence of an error in the assessor's report. In another case relating to damage caused by the 2021 Mansfield earthquake, the insurer relied upon a Geotech report that the damage was not likely to have been caused by the earthquake when there were widespread reports that the earthquake was felt across the city and even interstate.

2.2.2 Supporting vulnerable consumers

During the consultation process, five respondents highlighted concerns with Code subscribers' treatment of vulnerable consumers and urged the Committee to prioritise this matter in the PMF.

Like claim handling delays, respondents emphasised the inconsistencies in how some insurers identify consumers who may require additional support and the level of support offered to such consumers. Financial Counselling Victoria's (FCV) noted in its submission, the *"failure of Code subscribers to recognise and appropriately support customers experiencing vulnerability or hardship has been shown to exacerbate customers' distress and – in a post-disaster context – impede their recovery."*

FCV highlighted inconsistencies in how insurers treat vulnerable consumers, and called for more to be done to ensure insurance staff are inadequately trained to recognise vulnerability. They noted that insurer practices since the implementation of Part 9 of the Code which contains obligations for subscribers to support customers experiencing vulnerability, have not changed and in their experience, often does not align with the Code. FCV also questioned the lens through which insurers have defined vulnerability and whether there is a consistent industry-wide approach.

FRLC urged the Committee to examine how vulnerability was considered and acted on during the catastrophes.

WEstjustice highlighted there was a marked absence in service standards for recently-arrived and non-English speaking and/or non-literate policyholders, where insurers failed to provide appropriate interpreters and/or provide written outcomes in claims.

CALC and FCV recommended that the Committee consider a follow-up inquiry into compliance with and the implementation of Part 9 of the Code. Both stakeholders saw this work as timely given the Committee's previous work³ in this area in November 2021. FCV also recommended that the Committee issue a guidance note in consultation with the financial counselling sector to Code subscribers on identifying and supporting customers experiencing vulnerability.

2.2.3 Financial hardship

Three respondents made recommendations to the Committee in relation to financial hardship.

FCV and FRLC noted an inconsistent implementation of Part 10 of the Code, which contains obligations in relation to supporting customers experiencing financial hardship.

FCV noted that subscriber practices in relation to financial hardship support was variable, and sometimes placed customers and individuals with recovery action being taken against them at risk of further detriment. FCV recommends the Committee update its financial hardship guidance note in consultation with the financial counselling sector.

FCV cited an incident of an insurer's poor practice, which resulted in the denial of an individual's financial hardship application as they were unable to provide a copy of their bank statement, despite having provided the insurer with other documents to verify their financial

³ CGC's [Review of subscribers' implementation of vulnerability and financial hardship obligations](#). November 2021.

position. It was only through the financial counsellor's advocacy with the insurer that the hardship application was accepted, and the individual was able to negotiate payment terms.

2.2.4 Other

We received several suggestions in response to the consultation that are also worth noting. The ICA suggested that there may be opportunities for the Committee to consider enhancing its data collection to gain more insights about Code subscribers' support for customers experiencing vulnerability (e.g. family violence and urgent financial hardship). The ICA also raised there may be value in a thematic inquiry on whether the Code's enhanced Investigation Standards in Part 15 has achieved its intended objectives.

One respondent suggested that the Committee could consider exploring the drivers of the increase in Code breaches and the Committee's expectations of how they should be addressed. Another suggestion was to analyse withdrawn and declined claims to understand the drivers of the upward trend in withdrawn claims.

FRLC recommended that the Committee prioritise examination of Code subscriber's adherence to the commitments under Part 12 of the Code: Your access to information, especially paragraph 160 regarding complying with the Australian Privacy Principles.

3 The Committee's response

There are several ways for the Committee to monitor or explore the issues and concerns expressed in the submissions. The Committee can, for example:

- a) undertake thematic inquiries
- b) undertake targeted investigations in response to Code breach allegations which raise concerns matching those highlighted in submissions
- c) develop or revise guidance notes which clarify the Committee's compliance expectations on various concerns and matters
- d) raise issues with subscribers during individual subscriber meetings, particularly where Significant Breaches reported by a subscriber matches concerns raised in the stakeholder submissions
- e) enhance its annual data collection to capture information and insights for future analysis, and
- f) share insights from the Committee's thematic inquiries and targeted investigations, and breach data with other regulators such as ASIC and the Australian Prudential Regulatory Authority (APRA). The Committee notes that some agencies may be better placed to address specific risks and concerns. In addition, another agency may already have undertaken a review of the relevant matter or area of concern.

The Committee is not resourced to ensure that all concerns raised by stakeholders are included in its monitoring agenda but aims to ensure that its 2023-24 monitoring agenda sufficiently covers those issues that are serious or systemic or cause the most consumer harm.

For the 2023-24 financial year, the Committee is planning to include the following specific actions in its workplan:

- Conduct a thematic inquiry looking at subscriber end-to-end processes for providing financial hardship support to consumers.
- Revise the Committee's [Guidance Note 1](#) on Financial Hardship, published on 1 March 2018, following consultation with stakeholders.
- Increased focus on targeted investigations on Code breach allegations which involve mishandling of claims, and targeted investigations of Significant Breach notifications by subscribers involving claims handling breaches.
- Engagement with major Code subscribers about actions being taken to investigate the drivers for breaches being attributed to "processes and procedures not followed".
- Engage with Code subscribers, as the opportunity arises, about recommendations that may arise from the Committee's November 2022 [thematic inquiry](#) *Actioning Insights from Dispute about Claim Denials* when the findings report is published.
- Identify opportunities to undertake selective remediation audits of Significant Breach investigations involving breaches of Code obligations related to claims handling and vulnerable consumers, with a view to understanding whether the remediation actions undertaken by subscribers have been effective in preventing further similar breaches.

The Committee also notes that the 2020 Code is due for a review. We understand the ICA may commence this review within the next 12 months. The Committee will maintain a register of the issues highlighted in stakeholder submissions and consider whether any of the concerns might be suitably addressed through the Code review.

4 About this paper

4.1 Priority Monitoring Framework

As the Committee, we have a crucial role to assist Code subscribers in complying with the Code and improving their services to consumers. We do this by:

- assessing subscriber compliance with the Code;
- highlighting emerging risks;
- sanctioning subscribers for serious non-compliance; and
- guiding subscribers on improving compliance and consumer outcomes.

Our approach to these activities is underpinned by the [Priority Monitoring Framework](#) (PMF) which helps us in managing our priorities and directing our efforts so we can help subscribers comply with their Code obligations.

The PMF enables us to:

- monitor compliance with the Code;
- encourage best-practice compliance among subscribers; and
- identify priority focus areas.

By ensuring effective resource utilisation and consistent implementation of key aspects of our work, the PMF is instrumental in delivering the greatest benefit to consumers.

While we consider all complaints and breaches reported to us, our resources do not allow us to investigate every concern. We give priority to concerns by assessing their level of risk and addressing those that pose the greatest detriment to consumers.

Deciding our priorities

Each year we aim to direct our resources towards addressing the most important Code compliance issues, particularly those that have industry-wide or systemic implications or present significant risks to consumers.

When determining our priorities, we consider a variety of factors such as:

- the systemic or widespread nature of an issue;
- the likelihood of detriment occurring or reoccurring;
- the severity and scale of potential detriment to consumers, particularly vulnerable consumers;
- whether the issue is of serious public concern or is relevant to the broader industry;
- whether a subscriber, industry or other agency has acted to understand and address an issue; and
- the compliance history of a subscriber.

4.2 Consultation Process

The Committee initiated an open [consultation](#) process to seek input from stakeholders to inform the development of our priorities for the 2023-24 work program. The consultation was

launched on the Committee's website on 5 December 2022, and we invited stakeholders to provide submissions by 31 January 2023. We also emailed the consultation paper and accompanying letter to key stakeholders, including:

- Code subscribers;
- consumer organisations; and
- other interested parties such as the ICA, ASIC and AFCA.

We invited stakeholders to share their insights on concerns that may be causing detriment to general insurance consumers. This marks the first occasion where we have sought external feedback into our monitoring priorities, underscoring our commitment to engaging with stakeholders and incorporating their perspectives into our monitoring agenda.

4.3 Committee Strategy Development

The Committee held its 2023-24 Strategy Day on 9 and 10 March 2023. The Committee invited the ICA, AFCA and selected consumer advocates to further present their submissions to the Committee.

Appendix: List of respondents

- Australian Financial Complaints Authority
- Consumer Action Law Centre
- CrediCorp Pty Ltd
- Financial Counselling Victoria
- Financial Rights Legal Centre
- Insurance Council of Australia
- WEstjustice
- Yarra Ranges Council
- Australian Securities and Investment Commission (confidential)
- Code subscriber (confidential)

About the General Insurance Code Governance Committee

The General Insurance Code of Practice is a voluntary industry code that promotes high standards of service and better customer relationships in the general insurance industry. The Committee is the independent body responsible for monitoring and enforcing Code subscribers' compliance with the Code standards. See www.insurancecode.org.au

Statement of Recognition

We acknowledge the traditional custodians of the different lands across Australia, and pay respects to elders past, present and future.

For they hold the songlines, the stories, the traditions, the culture and the hopes of First Nations Australia.

This land is, was, and always will be traditional First Nations country.

We also acknowledge and pay respects to the traditional custodians of the lands on which our Code team works: the Wurundjeri, Boonwurrung, Wathaurung, Daungwurrung and Dja Wrung peoples of the Kulin Nation and Gadigal people of the Eora Nation.

Contact the Code Governance Committee

If you have any queries about this report, please contact the Committee through its secretariat at: info@codecompliance.org.au.



P O Box 14240
Melbourne
VIC 8001



1800 931 678



Insurancecode.org.au
info@codecompliance.org.au