



2 February 2023

Joanna Ifield
Senior Manager, Code Compliance and Monitoring
General Insurance Code Governance Committee
by email: joanna.iffield@codecompliance.org.au
cc. info@codecompliance.org.au

Dear Ms Ifield

CGC 2023-24 Monitoring & Compliance Priorities Consultation

Thank you for the opportunity to provide input into the Code Governance Committee's (CGC) 2023-24 Monitoring & Compliance Priorities Consultation.

The Financial Rights Legal Centre (**Financial Rights**) wishes to raise two areas where we believe the CGC should prioritise its resources for the 2023-24 work programme.

Insurer response to extreme weather events and their meeting the requirements under the Code

In August 2022 Financial Rights provided input into the Code Governance Committee's thematic inquiry into claims handling.

We believe this needs to remain a priority for the CGC given the continued number of calls from policyholders to the Insurance Law Service (ILS) seeking advice regarding poor claims handling. This is particularly the case respect to those impacted by extreme weather events

Our experience over 2022 is that the issues identified in our 2021 research report *Exposed: Insurance problems after extreme weather events*, continue to be reflective of the concerns raised by callers impacted by the large number of flooding events and other extreme weather events over the calendar year.

There were close to 750 services provided by ILS caseworkers to close to 600 clients impacted by floods, storms, earthquakes or bushfires over 2022. Of these services, poor claims handling is mentioned in 35% of services (33% of clients), 64% of which mentioned delays (66% of clients).

Maintenance was brought up as an issue in 17.3% of all extreme weather event insurance services (or by 16.8% of clients). 79.5% of maintenance services were for storm-related events with maintenance an issue in 21.2% of all storm insurance services or 20.4% of storm clients.

Defects were raised in 12% of extreme weather event insurance services (or by 11.1% of clients), while wear and tear was raised in 7.1% of services and 6.7% of clients.

Looking at the proportion of services where maintenance, defect or wear and tear were brought up – these accounted for 29.7% of extreme weather event insurance services. In other words 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.

Given the huge impact extreme weather events are having on the Australian community and the insurance sector, and the increased frequency of such events – we urge the CGC to closely examine the way the sector has responded to these crises and whether they are meeting community standards and the commitments insurers have made under the Code, especially those under:

- Part 8 (Making a Claims) with particular focus on:
 - Para 58 re: not discouraging claims;
 - Para 61 re: scope of works
 - Paras 64- 66 re: fast tracking urgent claims
 - Paras 77-78 re: claims decision time frames
 - Para 79 re: cash settlements; and
 - Para 88 re: response to catastrophes
- Part 9 (Vulnerability) re: how vulnerability was considered and acted on in the catastrophes. This includes:
 - a lack of support for vulnerable customers who bear more of a burden when there are delays and insurers don't do anything to fast track the claim.
 - and difficulty communicating with insurers especially. speaking to different people each time they ring the insurer and having to retell their stories; and
- Part 10 (Financial hardship).

If requested we would be able to make available case studies that reflected poor behaviour of insurers.

Insurer providing access to information – Part 12.

In April 2022, Financial Rights published research into the privacy practices of general insurers.¹ The report involved field research where consumers were asked to access personal data held by their insurers (as well as their My Insurance Claims Report via the Insurance Reference Service (IRS) – the existing industry scheme for sharing personal data).

¹ Roger Clarke and Nigel Waters, [Privacy practices in the general insurance industry](#) April 2022. April 2022

This research identified significant failings in both the ease of obtaining the information and data held on a consumer by their insurer and significant issues with respect to the quality of the data itself.

With respect to the process of obtaining data, the research found:

- The process of obtaining information from insurers was opaque and difficult, and fell far short of the reasonable expectations of consumers 20 years after the subject right of access was enacted into law
- Instances of obstructionism arose that would defeat most consumers
- The information provided by insurers varied greatly but was in many cases minimal
- In multiple instances, no information was provided on claims for which the participant was in possession of documentary evidence
- On the other hand, some participants received a voluminous amount of information
- Multiple insurers appear to be non-compliant with various aspects of Australian Privacy Principle 12 nor adhere to the OAIC's Guidelines in relation to that principle.
- Insurers are not handling requests in a manner that satisfies legal requirements, public expectations, and industry standards

With respect to the quality of the data itself, the research found:

- The information was in general difficult to interpret, failing to fulfil the Guideline "must ... give access in a way that meets the needs of ... the individual" (Australian Privacy Principle 12.70)
- Some participants had sufficient information available to them that they could see omissions and errors in the claims information provided by their insurer
- There were instances of material inconsistency between the contents of the My Insurance Claims Report and information provided by insurers or available in consumers' own records
- Some participants received a voluminous amount of information that was difficult to read, understand and interpret. One participant received a 7mb pdf made up of 165 pages. Much of the information provided - in a series of screenshots - goes back to the 1990s. Another received four locked pdfs including one 7mb pdf of 147 pages.
- Half of the volunteer participants reported that they received no information at all about claims that they were aware had been made, and

Given the extensive failures identified in this report, we recommend that the CGC prioritise examination of the General Insurance code subscriber's adherence to the commitments under Part 12: Your access to information, especially clause 160 regarding complying with the Principles of the *Privacy Act 1988*.

Getting the collection, storage, handling, use, disclosure and destruction of personal information is critically important – especially given the planned application of the Consumer Data Right to general insurance. Taking a closer look at how insurers meet their obligations

under Part 12 of the Code will provide significant insight and assistance to Treasury, OAIC, ACCC and the Data Standards Body in the development of CDR-GI.

Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact Financial Rights on (02) 9212 4216.

Kind Regards,



Karen Cox
Chief Executive Officer
Financial Rights Legal Centre
Direct: (02) 8204 1340
E-mail: karen.cox@financialrights.org.au

About Financial Rights

Financial Rights is a community legal centre that specialises in helping consumers understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies, and the Mob Strong Debt Help services which assist Aboriginal and Torres Strait Islander Peoples with credit, debt and insurance matters.