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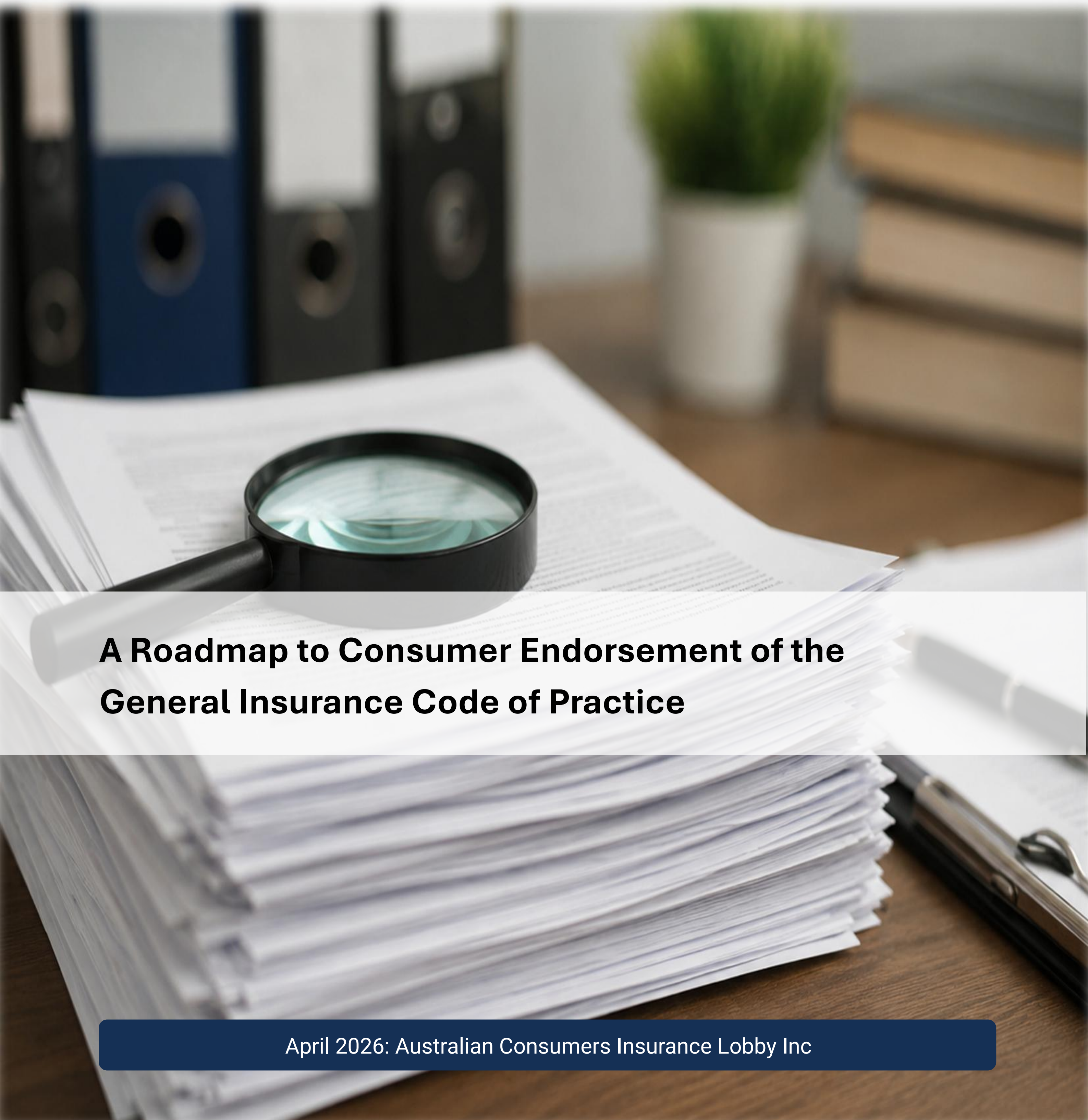

A Roadmap to Consumer Endorsement of the General Insurance Code of Practice

April 2026: Australian Consumers Insurance Lobby Inc

From Criticism to Collaboration

The Australian Consumers Insurance Lobby (ACIL) has been one of the most vocal and consistent consumer advocates calling for stronger consumer protections within the General Insurance Code of Practice. Over recent years, we have publicly raised concerns about the Code's shortcomings through parliamentary inquiries, regulatory consultations, media commentary and direct engagement with government, regulators and industry.

Consumer organisations should not be viewed simply as critics of the Code. They should be viewed as important stakeholders in rebuilding public confidence in the insurance industry. A Code that earns the confidence of consumer organisations is far more likely to earn the confidence of consumers, regulators and government.

Accordingly, this submission is intended to provide a practical roadmap to consumer endorsement. It identifies the reforms that ACIL believes are necessary before we could support the proposed Code and advocate for its approval.

Our objective is not to create unnecessary obligations for insurers or to criticise reform for its own sake. Many of the improvements we seek are already standard practice among insurers that maintain high standards of claims handling and customer service. Instead, our recommendations are directed at lifting minimum standards across the industry and addressing practices that continue to undermine consumer confidence.

The Code should help create a level playing field. Overall, the Code should recognise the reality that when dealing with Insured Consumers, especially at Claims Time, Insurers actually have the "playing field" advantage of far greater resources and depth of expertise. Frankly these are the reasons Consumers place their trust in an Insurer

It should ensure that insurers committed to fair claims handling and strong consumer protections are not placed at a competitive disadvantage simply because they choose to invest in higher standards than others. Consumers should not bear the consequences of commercial incentives that reward poor claims practices.

We hope the Insurance Council views this submission in the spirit in which it is intended: not as opposition to reform, but as an opportunity to build a stronger Code capable of attracting broad support from consumer organisations and, ultimately, delivering greater confidence in Australia's general insurance industry.

The Environment Has Changed

The development of the General Insurance Code of Practice no longer occurs in the environment it did in previous reviews.

Historically, an industry Code could largely be developed within the industry itself, with consultation forming an important but ultimately limited part of the process. Today, the expectations placed on the Code are fundamentally different.

Parliament has undertaken detailed inquiries into insurer conduct. ASIC has become increasingly active in setting expectations across the insurance industry. AFCA's determinations are publicly available and regularly scrutinised. Consumer organisations are more coordinated, informed and influential than ever before. Community expectations have evolved.

Poor claims handling increasingly attracts significant public and media attention.

ACIL believes this presents an opportunity. Consumer organisations should not simply be viewed as stakeholders to consult. They should be viewed as partners in developing a Code that genuinely earns public confidence and reflects the expectations of a modern insurance industry.

ASIC Approval Must Be Earned

The Insurance Council's decision to seek ASIC approval fundamentally changes the significance of this review.

ASIC approval should not be viewed as a procedural step. It is an endorsement that the Code delivers appropriate consumer protections and reflects contemporary community expectations.

ACIL does not believe ASIC should approve a Code that fails to properly respond to the major consumer protection issues that have been repeatedly identified in recent years. That includes concerns raised through;

- the Parliamentary Flood Inquiry,
- ASIC's own public commentary,
- AFCA decisions,
- Code Governance Committee reports
- and the lived experience of consumers who have had to fight insurers during some of the most difficult periods of their lives.

Driving Cultural Change

Insurers and the Insurance Council of Australia must recognise that meaningful cultural change is both necessary and important.

The General Insurance Code of Practice is one of the Insurance Council's most important tools for driving that change.

ACIL recognises that many insurers already demonstrate a reasonable consumer-focused culture and that many of the reforms proposed in this submission reflect practices already adopted by those insurers. The purpose of strengthening the Code is not to create unnecessary obligations for insurers already endeavouring to do the right thing, but to ensure that minimum industry standards are shaped by the industry's best performers, rather than those whose conduct continues to undermine public confidence.

A stronger Code should help embed a culture of fairness, transparency, accountability and consumer-focused decision-making across the industry.

ACIL's Key Areas of Concern

While this submission examines a number of issues throughout the proposed Code, ACIL's recommendations are centred on three principal areas.

Expert reports ACIL remains adamant that the proposed Code does not adequately address long-standing concerns regarding the independence, quality and use of expert reports in claims handling. This remains one of the most significant consumer protection issues in general insurance and is discussed in detail later in this submission.

Failure to adequately respond to previous reviews and inquiries ACIL is perplexed that a number of important recommendations arising from the Parliamentary Inquiry into insurers' responses to the 2022 floods and the Independent Review of the General Insurance Code of Practice have not been fully implemented or sufficiently addressed. Where recommendations have not been adopted, greater transparency is needed to explain why.

Weakening of existing consumer protections While the proposed Code introduces a number of positive initiatives, ACIL is alarmed that several existing commitments have been weakened, qualified or removed.

Contractual enforceability is a welcome reform, but it should not come at the expense of the strength of the obligations themselves.

Expert Reports

Expert reports are a key issue for ACIL and one of the most important areas requiring reform in the proposed Code.

Expert reports are often the decisive evidence relied upon by insurers when accepting, reducing or denying claims. For many consumers, an expert report can determine whether their claim is paid, whether they can return to their home and whether they are forced into a dispute process they may not have the financial or emotional capacity to pursue.

One of the fundamental challenges with expert reports is that insurers typically select, instruct and repeatedly engage the experts who provide opinions on claims. While the overwhelming majority of experts act professionally and independently, any system that allows parties to repeatedly engage experts whose opinions consistently align with their commercial interests requires strong safeguards to maintain public confidence.

This issue has been raised repeatedly over recent years. ASIC has expressed concerns regarding the use of expert reports. The General Insurance Code Governance Committee has identified significant issues. Parliamentary inquiries have made recommendations directed at improving the use of expert evidence in claims handling.

Following these concerns, the Insurance Council released its Expert Report Best Practice Standard in August 2024. ACIL acknowledges that the Expert Report Best Practice Standard includes a number of relevant requirements. However, we do not believe it currently provides sufficient guardrails for consumers. In particular, the current approach focuses heavily on insurers ensuring reports meet certain standards, rather than imposing clear obligations around how experts are commissioned, instructed, contracted and required to conduct themselves.

Pre-report commissioning and expert independence

ACIL is concerned that the current framework does not adequately address the pre-report commissioning stage.

This is critical. The independence of an expert report can be affected before the expert attends site or writes a single sentence. Instructions, commercial arrangements and contractual terms can all influence the way an expert approaches their task.

The Code and Expert Report Best Practice Standard should expressly address:

- **Directive guidance:** Instructions that may unduly influence expert opinions or direct experts toward conclusions favourable to the insurer.
- **Vendor contracts:** Performance measures, fee arrangements or contractual terms that may incentivise the denial, reduction or containment of claims.
- **Contractual restrictions:** Terms that require a supplier to prioritise the insurer's interests, or restrict the supplier from making findings critical of the insurer, its processes or its preferred position.

Where an expert becomes aware that an insurer's instructions, contractual arrangements or conduct may breach the Code or Expert Report Best Practice Standard, the expert should be required to notify the General Insurance Code Governance Committee.

Direct obligations on experts and service suppliers

ACIL is concerned that the current proposals place too much emphasis on insurers overseeing expert reports, without imposing sufficient obligations on experts and service suppliers themselves.

It is not enough for the insurer to be told to ensure reports meet certain standards. Experts should be clearly informed of their obligations before they are engaged and the insurer should be required to ensure those obligations form part of the expert's engagement terms.

The Code and Expert Report Best Practice Standard should require experts and service suppliers to:

- provide adequate evidence to substantiate their conclusions
- accurately cite and apply relevant building codes, standards and regulations
- consider previously certified performance solutions where relevant
- conduct investigations that are thorough and proportionate to the issues being assessed
- undertake further investigations where required, particularly in complex matters
- clearly state where their findings are inconclusive
- avoid presenting unsupported assumptions as expert conclusions, *or if they find it necessary to make any unsupported assumption(s) this is clearly expressed*

- avoid a bias toward findings that favour claim denial or policy exclusions

ACIL acknowledges that insurers have contractual arrangements with their service providers. That should make these obligations easier to implement and enforce, not harder.

Disputing expert reports

ACIL is also concerned about the power imbalance consumers face when disputing expert reports.

In practice, consumers are often required to obtain and pay for their own expert evidence to challenge an insurer's report. This can be expensive, stressful and unrealistic, particularly for consumers already experiencing financial hardship, displacement or vulnerability following an insured event.

Many consumers simply cannot afford to challenge an insurer's expert report, even where they have legitimate concerns about its accuracy, methodology or independence.

The Code should include a fairer process for disputing expert reports. This should include clear obligations on insurers to properly consider consumer concerns, explain why disputed findings are maintained and provide a reasonable pathway for review where a consumer identifies credible issues with an expert's report.

Failure to Adopt Key Review and Inquiry Recommendations

This is one of the most significant weaknesses in the proposed Code.

The Parliamentary Flood Inquiry was chaired by Dr Daniel Mulino MP, who is now the Minister for Financial Services. The Independent Code Review was commissioned to assess the effectiveness of the Code itself. It is therefore difficult to reconcile the Insurance Council seeking ASIC approval for a redrafted Code that appears to leave many important recommendations from both processes either unadopted, only partly adopted, or inadequately explained.

ACIL supports the concerns raised by other consumer organisations that the draft Code does not go far enough in implementing key recommendations. Based on those reviews, areas of concern include:

ACIL acknowledges the detailed analysis undertaken by other consumer organisations comparing the proposed Code against both the Parliamentary Flood Inquiry recommendations and the Independent Code Review. We support many of the concerns they have identified and consider the following omissions to be particularly significant.

Parliamentary Flood Inquiry recommendations not adopted or only partially adopted

- **Expert reports and scopes of works (Recommendations 18 & 25):** No commitment to standardise expert reports or scopes of works, despite their importance to claim outcomes and reducing underinsurance.

- **Access to expert reports (Recommendation 6):** Consumers are not provided expert reports proactively and must request them.

- **Cash settlements (Recommendations 10 & 13):** No commitment to provide standardised cash settlement offers, actionable quotations, project management allowances or reasonable contingency amounts where consumers take responsibility for repairs.

- **Misleading settlement terminology (Recommendation 15):** No prohibition on describing final cash settlement offers as "without prejudice", "confidential" or similar terminology that may discourage consumers from seeking advice.

- **Temporary accommodation (Recommendation 20):** No commitment to provide at least three months' notice before making significant changes to accommodation arrangements.

- **Sum insured guidance (Recommendation 24):** No commitment to provide consumers with general guidance on calculating appropriate sums insured and key considerations affecting adequate cover.

- **More flexible rebuilding options (Recommendation 26):** No commitment to allow consumers greater flexibility to improve resilience or efficiency when rebuilding following a total loss.

- **Claims communication following disasters (Recommendations 30 & 31):** No commitment to provide realistic claims timeframes or notify consumers within five business days of material changes to expected claim timeframes.

- **Real-time claims information (Recommendation 33):** No commitment to provide policyholders with access to live claims information and key claim documents.

- **Translation and accessibility (Recommendation 35):** No commitment to broader translation obligations or culturally appropriate interpreting services.

- **ISO 22458 (Recommendation 39):** No commitment requiring compliance with the international standard.

Independent Code Review recommendations not adopted or only partially adopted

- **Premium hardship (Recommendations 1 & 4):** No meaningful expansion of protections addressing premium affordability and financial hardship.

- **Cash settlements (Recommendation 71):** No commitment requiring insurers to consider a consumer's individual circumstances when offering cash settlements.

- **Small business protections (Recommendation 47):** The Code continues to exclude significant categories of small business insurance by relying on retail and wholesale insurance definitions.

- **Hardship support (Recommendation 12):** No commitment requiring insurers to engage with consumers before hardship assistance concludes.

- **Instalment payments (Recommendation 89):** No commitment preventing insurers from charging more where premiums are paid by instalments.

ACIL accepts that not every recommendation may be capable of implementation in full. Some recommendations may involve cost, operational complexity or unintended consequences.

However, the industry cannot simply move past these recommendations without proper explanation. If the Insurance Council does not intend to adopt particular recommendations, it should clearly explain why, including why the recommendation is not in consumers' interests, is not commercially sustainable, or cannot practically be implemented.

A Code seeking ASIC approval should demonstrate that previous reviews and inquiries have been seriously considered, *and counter explanations given*, not merely acknowledged.

Weakening Existing Consumer Protections

ACIL welcomes the proposal to make the General Insurance Code of Practice contractually enforceable. However, contractual enforceability is only meaningful if the obligations being enforced remain strong.

Throughout our review of the proposed Code, ACIL has become concerned that while the Code is being strengthened in one respect through contractual enforceability, a number of existing consumer protections appear to have been weakened, qualified or removed.

The practical effect is that stronger enforcement risks being accompanied by weaker obligations.

During our consultation on the draft Code, one observation particularly resonated with ACIL: the draft appears to "give with one hand and take away with the other." While consumers are told they will receive a contractually enforceable Code, many of the underlying commitments are softened through broader exceptions, more subjective language and reduced accountability. In practice, these changes risk creating additional avenues for insurers to avoid compliance with obligations that were previously clearer and more prescriptive.

ACIL also acknowledges the detailed review undertaken by other consumer organisations. We support many of the concerns they have identified, including:

Weakened oversight by the Code Governance Committee

- Reduced powers for the Code Governance Committee to investigate and address emerging issues before they become serious or systemic.
- Reduced ability for the Committee to hold insurers accountable, including limitations where another body is considering related matters.
- Removal of existing commitments requiring insurers to maintain systems capable of meeting Code obligations.
- Reduced ability for the Committee to review insurer complaints processes.
- Constraints on the Committee's ability to require corrective action.
- Requirements that potentially compromise the Committee's independence by requiring it to consider the Insurance Council's drafting intent when interpreting the Code.

Replacement of objective standards with subjective language

ACIL is concerned that a number of objective commitments have been replaced with broader and more subjective language. While these changes may appear minor, they reduce certainty for consumers and make compliance more difficult to assess.

Examples include:

- replacing commitments to act immediately with obligations to act "promptly"
- reducing complaint update commitments from at least every 10 days to monthly
- removing commitments to annually review non-genuine claim indicators in favour of a less specific commitment that they will simply be reviewed

Reduced protections during investigations

The draft Code also weakens a number of protections available to consumers during insurer investigations, including:

- removing the commitment to provide details of the consumer's primary contact
- allowing greater discretion regarding whether investigation information is provided in writing
- replacing the requirement that interviews only occur where information cannot reasonably be obtained in a less intrusive manner with a broader "reasonably necessary" test

Broader exceptions to claims obligations

ACIL is also concerned that the draft broadens the circumstances in which insurers may delay claims decisions.

While legitimate exceptions will always be necessary, those exceptions should be clearly defined and narrowly drafted. Broad or open-ended exceptions risk undermining otherwise strong consumer protections and reducing the practical value of contractual enforceability.

Taken collectively, these changes risk creating what consumer advocates have described as "get-out-of-jail" provisions, where obligations appear stronger on paper but become significantly easier to avoid in practice.

ACIL recommends that the Insurance Council review these changes and restore clear, objective and measurable commitments wherever possible. Strong consumer protections should not be diluted in the process of redrafting the Code.

ROADMAP FOR SUPPORTING THE INSURANCE COUNCIL OF AUSTRALIA'S CODE

Focused on three critical issues to deliver a Code that is strong, enforceable and genuinely protects consumers.

1 EXPERT REPORTS

Ensure expert reports are independent, accurate and based on thorough investigation – not influenced by insurers.

KEY CONCERNS

- Pre-commissioning instructions and contracts can influence opinions.
- Insufficient obligations on experts to ensure reports are thorough, evidence-based and impartial.
- Consumers bear the financial burden to dispute flawed reports.

ACIL SUPPORT

- Stronger rules for independent commissioning and contracting.
- Direct obligations on experts to deliver accurate, complete and impartial reports.
- Fair and accessible processes for disputing expert reports.

2 FAILURE TO ADOPT RECOMMENDATIONS FROM GOVERNMENT INQUIRIES & INDEPENDENT REVIEWS

Many important recommendations have been ignored or only partially adopted.

KEY CONCERNS

- Only a small number of Parliamentary Flood Inquiry recommendations have been adopted.
- Only a minority of Independent Code Review recommendations have been adopted.
- Key reforms on cash settlements, hardship, transparency, claims communication and consumer support have been omitted.
- No explanation provided for why many recommendations were not adopted.

ACIL SUPPORT

- Adopt more of the Parliamentary Flood Inquiry and Independent Code Review recommendations.
- Where recommendations are not adopted, provide clear, detailed reasons why.
- Ensure the Code reflects the lessons of past failures and prioritises consumer outcomes.

3 WEAKENING OF EXISTING CONSUMER PROTECTIONS

The draft Code replaces clear commitments with broad exceptions and subjective language – creating "get out of jail free" clauses.

KEY CONCERNS

- Oversight and enforcement powers of the Code Governance Committee are weakened.
- Specific timeframes replaced with vague terms like "promptly".
- Protections during investigations have been diluted.
- Broader exceptions allow unnecessary delays in claims decisions.

ACIL SUPPORT

- Restore clear, measurable obligations and timeframes.
- Strengthen the independence and powers of the Code Governance Committee.
- Close loopholes and limit broad exceptions that disadvantage consumers.

ACIL is ready to work with the Insurance Council of Australia to deliver a Code that is strong, enforceable and genuinely protects consumers.

Conclusion: Self-Regulation Is a Privilege, Not a Right

Self-regulation is a privilege, not a right. It can only retain legitimacy where it delivers outcomes that earn the confidence of consumers, regulators and government.

The general insurance industry finds itself at a pivotal moment. The repeated parliamentary inquiries, independent reviews, regulatory scrutiny and public attention of recent years have all highlighted the need for stronger consumer protections and greater accountability. This Code review represents one of the Insurance Council of Australia's most significant opportunities to demonstrate that the industry is capable of responding to those expectations.

If the industry fails to produce a Code that meaningfully addresses these concerns, it risks undermining confidence in the self-regulatory model and increasing calls for greater government intervention.

Conversely, a stronger Code presents an opportunity to restore trust, strengthen confidence and demonstrate that the industry is committed to continuous improvement and fair consumer outcomes.

ACIL wants to support that outcome. We hope this submission provides a constructive roadmap to achieving it.

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