Insurance Council of Australia: Draft General Insurance Code of Practice – Public Consultation

Submission by Legal Aid Queensland

20 July 2026

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the Insurance Council of Australia: Draft General Insurance Code of Practice – Public Consultation.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of "giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way" and is required to give this "legal assistance at a reasonable cost to the community and on an equitable basis throughout the State". Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ's services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day-to-day application of the law in courts, tribunals, and Ombudsman schemes. LAQ believes that this experience provides its lawyers with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavors to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ's Consumer Protection lawyers provide advice to clients as well as other lawyers and financial counsellors throughout Queensland in relation to mortgage stress, insurance, housing repossession, debt, contracts, loans, telecommunications and unsolicited consumer agreements.

Submission

This submission is divided into two parts:

- Additions to the draft General Insurance Code of Practice (the Code) that LAQ supports because they improve consumer outcomes.
- Further suggestions to improve the protection that the Code offers to consumers.

Additions to the Code that LAQ supports because they improve consumer outcomes

Clause 21 makes the Code contractually enforceable. This provides greater rights and legal options to consumers if an insurer's conduct does not meet the Code's standards.

Clause 12 allows a consumer to withdraw a nominee's authority in writing or by phone. This is an important right for consumers which will allow them more easily to deal with the rise of Insurance Claims Chasers.

The flexible approach to confirming identity in Clauses 13 and 14 makes it easier for those with non-standard identification to access financial services.

Clause 24 sets out a consumer's complaints options in a succinct and easy to understand way. It also emphasises the free service offered by Australian Financial Complaints Authority.

LAQ supports the introduction of Clause 39, which places an obligation on insurers to send a reminder to consumers about the renewal of their Annual Policy before it expires.

Clause 42 provides options for premium assistance which is important. LAQ would like to be involved in discussions with Insurers about innovative policy options that can help make insurance more financially accessible for people.

Clause 46 is important because it will clarify the on-going issues consumers experience about the removal of debris following a disaster.

Clause 46 addresses the issue of how maintenance and wear and tear can impact the cover of a home building policy which will assist consumers in understanding their responsibilities. However, in LAQ's experience, consumers would respond more positively if this obligation was framed in the positive – that is "the impact of your home building policy if you undertake regular maintenance and address wear and tear." It would also benefit both consumers and Insurers if this terminology was clearly and consistently used. For example, "maintenance" should only refer to regular and reasonable upkeep of the home, not to structural defects or unusual works.

Clause 47 which requires a consumer to be told in writing why a policy has been cancelled is an additional obligation that will benefit the understanding of consumers.

Clause 53 which specifically sets out that a claim will not be declined because an excess has not been paid is an important addition to the Code because it addresses an issue that has long confused consumers and insurance staff.

Clauses 62 to 65 which create an obligation for a primary contact on an insurance claim are important. Having a primary contact will reduce the burden on consumers of having to tell their story multiple times and should see greater efficiency in the claims handling process. The exemption provided in Clauses 64 and 65 are reasonable and appropriate.

LAQ supports Clauses 71 and 72 which require experts to comply with the Insurance Council of Australia's Guide: Use of Experts Reports and commits Insurers to take action where its External Experts do not comply. Strengthening the requirements around Expert Reports is likely to improve their standards and enforceability.

LAQ strongly supports Clause 75 which requires a claim that does not have a decision after 12 months to be paid unless Clause 76 applies. LAQ assist many clients who are struggling with insurers not making a decision on a claim until a long time after a disaster. This clause will go some way to addressing this problem.

LAQ supports Clauses 90 and 91 of the Code which provide a process for a consumer to change their mind about receiving a cash settlement within 20 business days of receiving it. In the immediate aftermath of disasters (and often for some time afterwards) consumers are under significant stress so that they can struggle to make major decisions such as whether to accept a cash settlement.

Clause 92 allows consumers to seek a review of a cash settlement within 12 months of receiving it. The previous Code only allowed a consumer 4 weeks. This improved timeframe reflects that sometimes it is only once work begins that additional damage is found on a property which would be covered by the insurance claim. This improves consumers access to what they are entitled to under the Policy.

In relation to Clause 111, LAQ supports an interview only being done in person if it is reasonably necessary.

LAQ supports the addition of family in Clause 124. This will protect consumers who might be subject to surveillance from the embarrassment of their family finding out.

In relation to Clause 141, LAQ supports systems being developed in accordance with the Principles of the Vulnerability Guide. In LAQ's submission it would further improve consumer rights if the Vulnerability Guide was a binding part of the Code.

Clauses 142 to 149 deal with how Insurers will provide extra care for customers. These clauses are a significant improvement on the previous Code. LAQ looks forward to seeing how insurers operationalise these provisions.

Clause 152 which mandates that insurers will not ask for an intervention order as evidence of family and domestic violence is a crucial clause to improve the access to financial services of those experiencing family and domestic violence.

Clause 158 contains an important right for consumers to apply for financial hardship if they cannot pay their excess.

Clause 179 codifies what most insurers already do which is not pursue uninsured tenants for damage to a property.

The Vulnerability Guide addresses the major issues of vulnerability well. It would be important to include it in the Code.

Further suggestions to improve the protection that the Code offers to consumers

The Industry Principles are succinct and easy to understand. In LAQ's submission they should be included in the Code and contain more detail about how the Principles will be achieved.

The definition of "Extra Care" should be amended slightly to replace the words "we provide" with "you need", to ensure that the assistance provided to vulnerable consumers is meaningful and more likely to be effective.

Clauses 27 to 30, with respect to provision of information under the Code, should retain the wording of Clause 160 in the current Code as this wording provides important context for these obligations and clarifies that it is not just information "that we relied on" that a consumer can request from their insurer (and that the insurer is required to provide). Removing the wording of Clause 160 from this section is misleading. Consumers often need to know what information was available to the insurer but not "relied on" and the only way to request this now would be under the Privacy Act.

Clause 32 is confusing because it seems a little nonsensical to admit a breach of the Code, but not liability to a consumer. For a consumer to establish liability they will still need to show a loss.

Clause 129 with respect to quality assurance takes out the annual timing for review of the non-genuine claims indicators – this should be kept in the Code, to ensure timely and regular reviews still occur.

In relation to the Code Governance Committee (CGC), it is important to maintain its independence for it to be effective. The current drafting does put at risk that independence. With respect to the section that requires the CGC to look at the intent of the drafting of clauses in the Code, if it is to remain in the Code, it is important that this be done at arm's length from the insurers. LAQ suggests the way to do this would be for the Insurance Council of Australia to produce a document similar to an "Explanatory Memorandum" that is produced for legislation introduced into Parliament, and provides a point-in-time view of the intention before the Code commences, rather than an evolving or shifting post-hoc view formed or described after the Australian Securities and Investment Commission approval of the Code.

With respect to Clause 197 (b) which places the focus on alleged serious and systemic breaches, it is important to remember that what would be viewed as more minor breaches by an insurer can have significant effects on consumers. Restricting the focus of the Committee to serious and systemic breaches risks the Committee missing breaches that have a substantial impact on consumers.

With respect to Clauses 71 and 72, what would further improve consumer outcomes about expert reports would be if each type of expert report had a template that must be followed. These templates could be publicly available by being posted on the Insurance Council of Australia's website and also available to consumers on request (for example, older or remote customers without consistent access to the internet) and could be used by External Experts via a portal accessible by all companies providing reports to insurers. This template approach would:

- Allow greater consistency in how expert reports are handled.
- Ensure consumers are receiving consistent information about their claims irrespective of their insurer.
- Make it easier for claims decision makers within insurers to access information they need to make a decision.

The Code is not currently consistent in its use of "business days" and "calendar days". It would enhance consumer understanding if only one of calendar day or business day was used consistently throughout the Code.

On LAQ's reading, some insurance used by small business is caught by the Code and some is not. For knowledge and understanding it would assist small business if all products they use were covered by the Code.

LAQ welcomes Clause 46 which requires insurers to provide information on its website about the impact on their policy of not completing regular maintenance and addressing wear and tear. In LAQ's submission it is important that this clause go further to require explanation of what actions are required to address wear and tear and to properly maintain the property. Where it is available it is also important that property specific information could be provided as part of an insurance renewal, as a means of premium transparency, so that consumers can see what steps they can take to reduce their Home Building premium.

With respect to Clause 70 which will require External Experts to provide their report within 60 business days of their appointment, there is no information about what the consequences are if the Expert does not meet this timeframe.

Clause 112 undertakes to provide an interpreter where possible. This clause would be further improved by requiring that the interview does not proceed until an interpreter becomes available.

Clause 114(a) concerns LAQ because it allows insurers to assess whether an interview is necessary for a person under 18 and whether or not they are capable of distinguishing truth from fiction. It is important that any process that is proposed to be used by trained professionals is set out in the Code. It is also important that considerations of the under 18's mental health and well-being are central to any assessment. The focus should not be on whether the interview should go ahead but instead should be on protecting their mental well-being.

Clause 6 reduces the protection offered by the Code being contractually enforceable where one of multiple co-issuers is not a Code Subscriber. Code Subscribers and their distributors should not be allowed to circumvent their obligations in this way. A new clause added to clarify that Code Subscribers cannot co-issue products with insurers who are not also Code Subscribers. This would ensure that consumers can rely on the protections in clauses 25, 180, 182, 183, 184, 186, 187, 189, 191, and 192. This issue is particularly important for consumers in Far North Queensland, where the high cost, high risk and remoteness leave them vulnerable to less choice of Insurers, including those who co-issue policies with non-Code Subscribers, and those who use Distributors who are not bound by and do not comply with the Code obligations.

Clause 204 replaces the consideration about "if we have not acted with the utmost good faith" with "if we have not acted reasonably". This appears to allow for the duty to act with the utmost good faith to be breached if acting reasonably.

Clause 207 removes the additional sanction of compensation to an individual for direct financial loss caused by the insurer arising from a "significant breach" – this should be reinstated in the new Code, to ensure that consumers do not have to take unnecessary or costly action themselves in these circumstances.

Clause 177 should include the words "or believed by us to be owed by you" so as not to create confusion about whether a person owes money to an insurer before a Court has made a relevant order about liability and scope.

Clause 135 should reinstate the timeframe of 10 business days or at least a timeframe – as currently drafted, there are no parameters for how often the insurer will keep the consumer informed on the progress of their complaint. It can be significantly distressing for a consumer to not know where their complaint is up to.

Clause 85 should revert to the wording in the current Code because the wording in the draft "If we have made a decision to accept" could be applied by insurers to allow them to ask for proof of ownership or an itemised list of damaged property before they can make the decision that then triggers the obligation not to ask.

Clause 73 should revert to the wording in the current Code because the wording in the draft "Once we have determined" could be applied by insurers to allow them to extend the timeframe indefinitely, where they have actually received all relevant information and completed all enquiries but not yet "determined" that to be so.

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