Law Council
OF AUSTRALIA

Legal Practice Section

21 July 2026

Andrew Hall
Executive Director and CEO
Insurance Code of Australia
PO Box 14240
MELBOURNE VIC 8001

By email: codeofpractice2026@insurancecouncil.com.au

Dear Mr Hall

New draft General Insurance Code of Practice

1. This submission is made by the Australian Consumer Law Committee of the Law Council of Australia (**Consumer Law Committee**) in response to the proposed redrafted General Insurance Code of Practice (**Code**) by the Insurance Council of Australia (**ICA**).

   The Consumer Law Committee welcomes the opportunity to comment on the proposed redraft of the Code.

   The Consumer Law Committee supports proposed changes to the Code that strengthen consumer protections, accountability and enforceability. However, the proposed changes risk delayed implementation, the watering down of existing protections, and the weakening of the role of the Code Governance Committee (**CGC**).Recommendations

Recommendations

2. The Consumer Law Committee recommends that the new Code should:

   - be enforceable as a term of the contract between an insurer and a consumer;
   - preserve the CGC's role as an effective, independent governance body; and
   - adopt the recommendations of the Independent Review of the 2020 General Insurance Code of Practice (**Independent Review**) and Parliamentary Inquiry into insurers' responses to 2022 major floods claims (**Parliamentary Flood Inquiry**) to address significant issues with affordability, financial hardship, expert reports, cash settlements, repairs and rebuilds, temporary accommodation, customer communication and service, data governance and commitments to small businesses.

3. We also recommend that:

- vulnerability guidance be enforceable and specific;
- the key principles of ISO 22458:2022, along with minimum standards consumers can expect from their insurer, be embodied in the Code and be enforceable; and
- the Code be operational within a reasonable time of approval by ASIC.

Enforceability of the Code as a contractual term is an important reform

4. The Consumer Law Committee strongly supports making the new Code a part of the contract between insurers and policyholders (draft paragraphs 21–23). This brings the Code up to the standard of the Banking Code of Practice and the Customer Owned Banking Code of Practice, which are already incorporated into contracts with consumers. Giving the new Code this clearer legal status would be a significant step towards ensuring that consumers can genuinely rely on and enforce the commitments made by insurers in the Code.

   This type of enforceability is also central to ASIC's approval framework for industry codes, given its importance to Code effectiveness.

   The Consumer Law Committee is disappointed with the number of exceptions to enforceability set out in the redraft of the Code, and particularly, the exclusion of the draft paragraphs relating to vulnerability and carve outs after an Extraordinary Event (draft paragraph 23(e)), which is in conflict with Recommendation 32 of the Parliamentary Flood Inquiry that insurers must adequately resource themselves in the event of such an event.

   To ensure consumer utility and ease of regulation, there should be no carve outs or exceptions from enforceability.

The proposed redraft includes some important consumer protections

5. While the Consumer Law Committee has real concerns about the proposed redraft, it acknowledges that the draft includes some new and expanded commitments that would benefit consumers. We strongly support the proposed improvements to the Code, including:

   - automatic acceptance of home and motor claims after 12 months where no decision has been made (though we recommend improved drafting to ensure that "defined exceptions" meets this purpose);
   - strengthened requirements for primary points of contact and cash settlements;
   - expanded definition of urgent financial need;
   - strengthened provisions with respect to helping customers impacted by family violence;
   - commitments to better support people impacted by trauma and mental health issues, drawn from existing ICA Guides; and
   - obligations to comply with the ICA's Expert Report Best Practice Standard (though we recommend that this go further to require standardised expert reports: Parliamentary Flood Inquiry Recommendation 18 and Independent Review Recommendation 74).

The proposed redraft weakens or removes existing commitments

6. The Consumer Law Committee is concerned that the proposed redraft removes or weakens a number of commitments contained in the current 2021 General Insurance Code of Practice.

Code Governance Committee

7. The proposed changes weaken the independence and effectiveness of the CGC by:

- Limiting the scope of the CGC's functions and powers. For example, the CGC would only have a role in investigating and making decisions, and identifying areas for industry improvement, where there are serious and systemic issues (draft paragraphs 197 and 198). "Serious and systemic" is not defined. As it is currently drafted, the Code may exclude the CGC's ability to examine a broad range or a persistence of smaller issues, which may reveal or develop into serious or systemic concerns. The proposed change could therefore significantly weaken the CGC's important role in initiating investigations and identifying emerging issues and trends.
- Reducing the CGC's ability to hold insurers accountable by:
  - preventing the CGC from considering complaints that are being considered by another body, which, while it may reduce some duplication, could result in missed opportunities of monitoring or responding to harm efficiently;
  - removing the existing commitment that insurers have systems in place to meet Code standards;
  - preventing the CGC from considering complaints about insurer complaints processes; and
  - constraining the CGC's power to require rectification of breaches.
- Undermining the CGC's independence by requiring it to take into account the ICA's drafting intent (draft paragraph 197), leading to key decisions about interpretation being potentially over-influenced by the insurance industry, rather than the independent monitoring body, and impinging upon the principles of independent monitoring outlined in ASIC Regulatory Guide 183.
- Replacing specific timeframes with vague terms such as "promptly", which are less certain and virtually impossible for consumers to rely upon—such as, requiring insurers to "promptly" take action to fix a mistake, rather than doing so immediately, without defining "promptly".
- Removing the obligation to keep consumers informed at least every 10 business days about the progress of a complaint and replacing it with monthly updates.
- Weakening commitments designed to support consumers during investigations, including by:
  - not requiring that details of a primary contact be provided;
  - allowing insurers not to tell consumers in writing about an investigation in certain circumstances;
  - moving away from the commitment to conduct an interview only where information cannot be obtained in a less intrusive manner and replacing it with a "reasonably necessary" test.

- Broadening the range of circumstances in which insurers can delay claims decisions, including through an open-ended list of reasons that may capture matters such as a consumer lodging a complaint with an insurer.
- Restricting the CGC's investigations and sanctions powers, by making the definition of "Significant Breach" more cumbersome and only enabling the CGC to impose sanctions for a "Significant Breach" (draft paragraph 204).

The proposed redraft does not adequately respond to key recommendations

8. The Consumer Law Committee is particularly concerned that the proposed redraft does not adequately address many of the key recommendations made by the Parliamentary Flood Inquiry and the Independent Review.

The proposed redraft appears to fully adopt only approximately one-third of the Independent Review's recommendations.

The proposed redraft appears to fully adopt only three of the Parliamentary Flood Inquiry's 26 relevant recommendations.

The key recommendations that are not currently addressed in the draft Code, but which should be included, are:

- **Affordability and hardship**
  - measures to support consumers experiencing hardship, given this is a significant issue during the current cost-of-living crisis and a period of rising insurance premiums (Independent Review Recommendations 1 and 4, and Parliamentary Flood Inquiry Recommendation 26—see the preamble of Section 8 and Clause 42);
  - a commitment that insurers engage with consumers before hardship support concludes;
  - a commitment not to charge consumers more for paying by instalments.
- **Expert reports**
  - a commitment to standardise scopes of works or expert reports, given their role in underinsurance and poor claims outcomes (Parliamentary Flood Inquiry Recommendation 6);
  - a commitment to proactively provide expert reports to consumers, rather than requiring consumers to request them (Parliamentary Flood Inquiry Recommendation 6).
- **Cash settlements**
  - a commitment to consider a consumer's individual circumstances when offering cash settlements (Code Recommendation 71);
  - a commitment to provide final cash settlement offers in a template form, including actionable quotes, or to provide an uplift for project management costs (Parliamentary Flood Inquiry Recommendation 10);
  - a commitment to prohibit the use of terms such as "without prejudice" or "confidential" on final cash settlement offers where those terms may reasonably mislead consumers (Parliamentary Flood Inquiry Recommendation 15).

- **Rebuilds and repairs**
  - a reasonable uplift or contingency sum to compensate policyholders for risks they take on when project managing repairs to their property (Parliamentary Flood Inquiry Recommendation 10);
  - a more flexible approach to rebuilds, including allowing consumers to exchange size or scope for resilience and efficiency in sum insured repairs and rebuilds (Parliamentary Flood Inquiry Recommendation 26).
- **Temporary accommodation**: a commitment to provide consumers in temporary accommodation with at least three months' notice of proposed substantive changes to their living situation or the insurer's accommodation payments (Parliamentary Flood Inquiry Recommendation 20).
- **Communication and service**
  - a commitment to provide general information about the calculation of a policyholder's sum insured and factors relevant to full coverage in a total loss event (Parliamentary Flood Inquiry Recommendation 24);
  - a commitment that, following a natural disaster, insurers will provide policyholders with updated information about the claims process, including realistic time estimates for each stage;
  - a commitment to contact customers within five business days of an insurer becoming aware of a material change in the expected timing of any stage of a claim (Parliamentary Flood Inquiry Recommendation 31), and not simply an update every 20 days or 10 days when asked as at paragraph 59 of the redraft of the Code;
  - a commitment to provide consumers with access to real-time information about claim progress and key claim documentation (Parliamentary Flood Inquiry Recommendation 33);
  - a commitment to ensure key information is translated and available on insurers' websites, including translating and interpreting services for First Nations consumers;
  - a requirement to comply with ISO 22458 Consumer vulnerability—Requirements and guidelines for the design and delivery of inclusive service; and
  - a commitment to provide renewal notices at least 28 days before renewal.
- **Data governance**: a commitment to publish data ethics principles.
- **Small business**: extension of protections to small businesses in line with the recommendations of the Independent Review (see Recommendation 47).

Vulnerability commitments should be enforceable and specific

9. The ICA's Vulnerability Guidance appears to be aspirational rather than enforceable, and does not provide sufficient specificity about the steps insurers must take to provide additional support to consumers experiencing vulnerability.

   Relegating critical vulnerability protections to guidance leaves individual insurers to choose how to apply that guidance and poses real risks of inconsistency of outcomes for consumers.

Further, the proposed draft does not adequately address the needs of First Nations consumers. The Code must include commitments to:

- provide access to interpreting services;
- meet identification and verification standards; and
- ask customers whether they identify as First Nations people, where this is relevant to providing appropriate support.

To ensure clarity and consistency of care for consumers experiencing vulnerability, the redraft must include the key principles of ISO 22458:2022 and the minimum standards consumers can expect from their insurer as enforceable provisions of the Code.

Next steps

10. The ICA is proposing a two-year period for the Code to be operational. This is a significant delay that will leave consumers without much-needed protections. This review has already taken 2 years. The industry needs to take accountability for the delays and be ambitious in driving industry-wide improvements.

    Where the Consumer Law Committee understands that the ICA intends the redrafted Code to be finalised by January 2027, it is reasonable to aim for ASIC approval and a start date of 1 July 2027.

    Failing this implementation timeline, the Consumer Law Committee supports the introduction of a mandatory code under section 1101AE of the *Corporations Act 2001* (Cth) or legislated service standards, similar to those being introduced for the superannuation industry.

    It is anticipated that the ICA will lodge a further redrafted Code in September 2026. Stakeholders, including the Consumer Law Committee, should have a further opportunity to provide views on the further proposed redraft of the Code.

    Note: The Consumer Law Committee has used AI in the submission for the purpose of editing for clarity. AI was not used to draft the substance of the responses.

The Committee would welcome the opportunity to discuss this submission. In the first instance, please contact Ursula Noye the Committee Co-Chair on [redacted].

Yours sincerely

Greg McIntyre SC
Chair, Legal Practice Section