

31 January 2023

By email: [info@codecompliance.org.au](mailto:info@codecompliance.org.au)

## **General Insurance Code Governance Committee Monitoring and Compliance Priorities 2023-24**

Financial Counselling Victoria (FCVic) welcomes the opportunity to make a submission to the General Insurance Code Governance Committee's consultation on the 2023-24 CGC Monitoring and Compliance Priorities.

### [About Financial Counselling Victoria](#)

Financial Counselling Victoria (FCVic) is the peak body and professional association for financial counsellors in Victoria. Financial counselling is a regulated profession providing free, confidential and independent advice and advocacy for people experiencing, or at risk of, financial hardship. FCVic advocates on behalf of financial counsellors and their clients on systemic issues that cause and exacerbate poverty and hardship.

A financial counsellor can support an insurance customer through the entire claims process, and will often (with consent) advocate and negotiate with the insurer on behalf of the customer.

In preparing this submission, FCVic has consulted with and drawn on the experience of disaster recovery financial counsellors, who have been supporting disaster-affected insurance customers to ensure that they receive fair and reasonable outcomes to their insurance claims. Based on the prevalence of insurance-related issues identified through financial counsellor casework, FCVic has established an Insurance Working Group to support the ongoing advocacy concerns relating to the insurance industry.

This submission will focus primarily on home and contents insurance customers.

### [Executive Summary](#)

As large, community-scale catastrophic weather events become more common, financial counsellors working on the frontline have gained considerable and unique insights into the challenges affecting people recovering from disaster. The most significant set of issues being identified by disaster recovery financial counsellors relate to insurance. Financial counsellors have reported to FCVic widespread poor practice by insurers, specifically around treatment of vulnerability and hardship.

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. This places insurers at risk of causing harm and detriment to their customers.

**FCVic makes the following recommendations:**

- **That the Code Governance Committee conduct a follow-up inquiry into the implementation of Part 9 by Code subscribers as a priority.**
- **That the Code Governance Committee issue a guidance note to Code subscribers on identifying and supporting customers experiencing vulnerability, in consultation with the financial counselling sector.**
- **That the Code Governance Committee prioritise Part 9 of the Code for compliance monitoring under its Priority Monitoring Framework for 2023-24.**
- **That the Code Governance Committee update its financial hardship guidance note to Code subscribers in consultation with the financial counselling sector.**

### Part 9: Supporting customers experiencing vulnerability

Through their casework over the past three years – dating back to the 2019-20 Black Summer Bushfires, and followed by a series of disaster events since then – financial counsellors have identified industry-wide failings by insurers in effectively supporting customers experiencing vulnerability. From ignoring requests to recognise and communicate with a customer- authorised support person, through to intimidation and harassment of customers – reports from financial counsellors indicate that not only are insurers not consistently supporting customers experiencing vulnerability, their responding staff are inadequately trained to recognise vulnerability. Examples of these failings are documented in the case studies provided in **Appendix A** of this submission.

While the provisions in the Code for customers experiencing vulnerability were introduced in the 2020 Code (with implementation from 1 January 2021) financial counsellors have reported that insurer practices since implementation of Part 9 remain unchanged and often do not align with the Code.

While the Code Governance Committee conducted a review of the implementation of Parts 9 and 10 of the Code in 2021, it was too early to evaluate the success of the implementation. At the time that the Code subscribers responded to the Committee’s questionnaire on the implementation of Part 9 of the Code, less than 18% of them had completed a post-implementation review.<sup>1</sup>

As noted in the Committee’s report, *‘Review of subscribers’ implementation of vulnerability and financial hardship obligations’*, a post-implementation review is not a requirement of the Code,

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<sup>1</sup> General Insurance Code Governance Committee, *Review of subscribers’ implementation of vulnerability and financial hardship obligations* (Report, November 2021), 5  
<https://insurancecode.org.au/app/uploads/2021/11/Review-of-subscribers-implementation-of-vulnerability-and-financial-hardship-obligations.pdf>

*[h]owever, given the importance of these new obligations, the Committee considers it is an important exercise that Code subscribers should undertake to ensure these obligations are being met in practice.<sup>2</sup>*

Sufficient time has now passed that an inquiry into the Code subscriber's implementation of Part 9 of the Code should be given priority by the Code Governance Committee.

**Recommendation 1: That the Code Governance Committee conduct a follow-up inquiry into the implementation of Part 9 by Code subscribers as a priority.**

Part 9 of the Code provides only a vague description of what is expected of insurers in supporting customers experiencing vulnerability, with no guidance on what appropriate training for employees might look like. It is unclear through what lens insurers have defined vulnerability in their internal policies, and whether it would amount to a consistent, industry-wide approach to identifying and supporting customers experiencing vulnerability.

Further guidance should be provided to Code subscribers to ensure that vulnerable customers will not suffer detriment due to inconsistent implementation of Part 9 of the Code.

**Recommendation 2: That the Code Governance Committee issue a guidance note to Code subscribers on identifying and supporting customers experiencing vulnerability, in consultation with the financial counselling sector.**

The Code is heavily reliant on insurers self-reporting breaches. However, when it comes to compliance and enforcement of the requirements under Part 9, there is little evidence to suggest that insurers are capable of identifying their own poor practices (see Case Study 2 in *Appendix A*). This means that the obligation to report the breaches to the Committee is transferred to vulnerable customers, who are not necessarily in a position to put their case forward, which suggests that this is an under-reported area of risk.

**Recommendation 3: That the Code Governance Committee prioritise Part 9 of the Code for compliance monitoring under its Priority Monitoring Framework for 2023-24.**

## Part 10: Financial Hardship

Similar to Part 9 of the Code, inconsistent implementation of Part 10 of the Code by insurers places customers, and individuals with recovery action being taken against them, at risk of further detriment.

In one instance, a financial counsellor reported to FCVic about an insurer denying a hardship application because the individual was unable to provide a copy of their bank statement, despite having provided the insurer with other documentation sufficient to prove their financial 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.

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<sup>2</sup> Ibid.

The Committee is yet to update its guidance note on financial hardship “to provide industry with further guidance on complying with these important Code obligations”<sup>3</sup>, as noted in the Committee’s *‘Review of subscribers’ implementation of vulnerability and financial hardship obligations’*. The existing guidance note was published in March 2018 and pre-dates the current Code.

**Recommendation 4: That the Code Governance Committee update its financial hardship guidance note to Code subscribers in consultation with the financial counselling sector.**

Thank you for the opportunity to make a submission to the General Insurance Code Governance Committee’s consultation on the 2023-24 CGC Monitoring and Compliance Priorities. Please contact Tracey Blythe at [tblythe@fcvic.org.au](mailto:tblythe@fcvic.org.au) if you have any questions about this submission.

Yours Sincerely,

A handwritten signature in blue ink, appearing to read 'Dr Sandy Ross', with a stylized flourish at the end.

Dr Sandy Ross  
Executive Officer  
Financial Counselling Victoria

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<sup>3</sup> Ibid, 4

## Appendix A: Case studies

### **Case study 1 from a disaster recovery financial counsellor**

New homeowners, Dave and Mel\*, were excited to move into their first home. Four months after moving in, their home was severely damaged by flood waters.

Dave contacted the insurer, XYZ Insurance Company, to make a claim. The insurer was made aware of the trauma and poor mental health of both Dave and Mel after the event. Dave asked to be the contact person for the claim, as Mel was not able to deal with the added stress on top of other health issues impacting her at the time.

Despite the request, XYZ Insurance Company continued to contact Mel regarding the claim.

When XYZ Insurance Company sent experts to attend the property for assessments, they treated Dave and Mel poorly – intimidating them and laughing at pre-existing poor renovations, which had not been discovered until damaged plaster was removed after the floods.

Dave and Mel were advised that they would have to prove that the renovations were built to standards at the time, which created further stress for them. They were also instructed to go through all of their flood-damaged and contaminated branded clothes and take photos of them and list their value or else they would be compensated with Kmart replacement value.

Prior to presenting to the financial counselling service for support, Dave and Mel tried to negotiate a higher building cash settlement and further temporary accommodation through self-advocacy, which only further added to their trauma.

*In this case, the insurer failed to identify the customers' vulnerability in line with Paragraph 92 of the Code, failed to provide the customers with extra care in line with Paragraphs 91 and 97 of the Code, and seemingly failed to provide appropriate training to employees on supporting customers experiencing vulnerability in line with Paragraph 96 of the Code.*

\*names have been changed.

## Case study 2 from a disaster recovery financial counsellor

Ken and Martha\*, a retired couple, were devastated when a severe storm event caused flood damage to their home in June 2021.

After making a claim with their insurer, ABC Insurance Company, for the cost to repair the damage, the insurer sent an expert to inspect the property in July 2021.

The expert identified significant flood damage which was contributing to harmful mould in several rooms of Ken and Martha's home. The expert recommended mould remediation for the property.

In August 2021, engineers were appointed to assess the structural damage of Ken and Martha's home. While the engineers noted both pre-existing, long-term structural damage, as well as more recent damage likely caused by the flooding, they recommended that a 6-9 month drying period was needed to consider the full extent of the flood damage.

In September 2021, ABC Insurance Company offered Ken and Martha a cash settlement, without carrying out the recommended mould remediation works, and despite the recommendation to re-evaluate the damage after the drying out period. This left Ken and Martha living in an unhealthy environment, with the expectation that they would arrange the mould remediation works themselves.

With the support of their financial counsellor, Ken and Martha rejected the insurer's offer, and requested a further engineering report after the drying period to determine the true extent of the flood damage.

ABC Insurance Company did not acknowledge the financial counsellor's authority and did not respond to emails from the financial counsellor. A complaint was lodged with the Australian Financial Complaints Authority (AFCA) after several requests for contact with the insurer – including an internal dispute resolution complaint – went unanswered.

The AFCA complaint was referred to a panel for determination. In its determination, the panel noted that "the insurer failed to complete the make safe or mould remediation when it should have known the complainant was vulnerable." The panel ordered the insurer to increase the cash settlement offer, and to pay Ken and Martha compensation for non-financial loss due to the "unusual amount of distress and difficulty" that the insurer had caused.

*In this case, the insurer failed to identify the customers' vulnerability in line with Paragraph 92 of the Code, failed to provide the customers with extra care in line with Paragraphs 91 and 97 of the Code, failed to recognise the authority of the customers' support person in line with Paragraph 98 of the Code, and seemingly failed to provide appropriate training to employees on supporting customers experiencing vulnerability in line with Paragraph 96 of the Code.*

\*names have been changed.

### **Case study 3 from a disaster recovery financial counsellor**

The Jones family\* – parents Amy and Ben and their two teenage children – moved into a rental caravan on their property after their home became uninhabitable following severe storms.

The family lodged a claim with their insurer, 123 Insurance Company, to cover the costs to repair their home.

Left to live in the caravan for 10 months due to a series of delays in the claim process, the family started receiving late notices for the payment of storage and caravan rental costs while waiting for payout from 123 Insurance Company. This caused significant stress to the family who were already dealing with the trauma of the disaster event, and poor mental health conditions due to the difficult living conditions.

The Jones family were receiving assistance from their local financial counsellor, who they had authorised to act on their behalf with the insurer.

Despite 123 Insurance Company being advised of the customer's request for contact to be made with the financial counsellor, the insurer failed to acknowledge the financial counsellor's authority and continued to contact Amy several times during the claims process.

During one conversation with Amy, the claims manager repeatedly asked her "what do you want?" – an interaction which caused negative impacts on her mental health. From their behaviour, it was clear that the claims manager had not been trained in how to support customers experiencing vulnerability, or how to treat traumatised customers.

The financial counsellor raised a complaint through 123 Insurance Company's internal dispute resolution scheme, and requested that the insurer assist with trauma counselling for the additional stress they had caused the Jones family.

The insurer offered the Jones family three sessions with an outsourced trauma counselling service, and if the need for counselling exceeded these three sessions, further counselling would only be offered at the discretion of 123 Insurance Company.

*In this case, the insurer failed to identify the customers' vulnerability in line with Paragraph 92 of the Code, failed to provide the customers with extra care in line with Paragraphs 91 and 97 of the Code, failed to recognise the authority of the customers' support person in line with Paragraph 98 of the Code, and seemingly failed to provide appropriate training to employees on supporting customers experiencing vulnerability in line with Paragraph 96 of the Code.*

\*names have been changed.