

A Fair Go in **INSURANCE**

JANUARY 2011

These recommendations for reform of the insurance industry have been put together by a coalition of consumer advocacy and legal aid organisations.

1. Develop a fair and easily understood standard definition of flood that must be used in all Australian household insurance policies.
2. Introduce a mandatory key facts sheet for general insurance policies.
3. Require clear and bold disclosure of exclusions.
4. Implement last year's Senate recommendation to extend national unfair contract terms protections to insurance contracts.
5. Implement a six month timeframe for determining insurance claims.
6. Encourage the industry to offer total replacement policies instead of sum insured policies.
7. Require insurers to offer fortnightly payment and Centrepay payment options.
8. Require insurers to inform consumers calling about a claim about their right to make a claim, appeal a decision or go to the Financial Ombudsman Scheme.
9. Ensure important information about flood mapping and insurance claims data is publicly available .
10. Establish a panel of independent hydrologists available to consumers in dispute with their insurer in flood damage claims.
11. Establish a flood legal and financial counselling program.
12. Refer a flood insurance inquiry to the Productivity Commission to investigate full flood cover for the Australian community.

The organisations involved in preparing this document were:

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|  <p>afccra Australian Financial Counselling & Credit Reform Association</p> | <p>Australian Financial Counselling and Credit Reform Association</p> |
|  <p>Brotherhood of St Laurence Working for an Australia free of poverty</p> | <p>Brotherhood of St Laurence</p> |
|  <p>consumer action law centre</p> | <p>Consumer Action Law Centre</p> |
|  <p>choice</p> | <p>CHOICE</p> |
|  <p>Consumer Credit Legal Centre NSW</p> | <p>Consumer Credit Legal Centre</p> |
|  <p>FCRC Financial & Consumer Rights Council Inc.</p> | <p>Financial and Consumer Rights Council</p> |
| <p>Footscray Community Legal Centre</p> | <p>Footscray Community Legal Centre</p> |
|  <p>Insurance Law Service</p> | <p>Insurance Law Service</p> |
|  <p>Legal Aid NEW SOUTH WALES</p> | <p>Legal Aid New South Wales</p> |
|  <p>Victoria Legal Aid Lawyers And Legal Services</p> | <p>Victoria Legal Aid</p> |

Contact:

Nicole Rich

Consumer Action Law Centre

mobile: 0417 348 571

nicole@consumeraction.org.au

- 1** **Develop a fair and easily understood standard definition of flood that must be used in all Australian household insurance policies.**

Flood is currently a common exclusion in home building and contents policies, but flood definitions vary so that some exclude only river or dam flood, while others are so broad that they may exclude forms of flash flooding or storm water damage.

Consumers should at least be able to understand what they are agreeing to if they are offered a flood exclusion in their policy, and should be able to be confident when shopping around that they are comparing like policies with like.

The Government should convene an industry and community consultation process to develop a fair standard flood definition for use in all home insurance policies. If the industry cannot implement this proposal within 12 months, the Government should amend the Act to implement it.

- 2** **Introduce a mandatory key facts sheet for general insurance policies**

Consistent with the Government's announced reforms in the banking area, all insurers should be required to provide potential insureds with a simple one-page key facts sheet in a standard form which clearly sets out important features such as what the policy does and does not cover, the amount of cover (including if there are different cover amounts under the policy depending on the type of damage) and the cost of the premiums.

This key facts sheet should be available at any time to an interested consumer to allow informed shopping around, and should be compulsorily provided at the time a consumer answers the insurer's questions to obtain a quote or proposal – this forms the basis of the contract and is the information typically read by consumers (not the policy document which arrives later).

The standard cover provisions of the Act should be amended so that an insurer cannot successfully exclude standard cover events from a policy unless they have complied with this requirement.

- 3** **Require clear and bold disclosure of exclusions.**

Any exclusions that depart from standard cover prescribed by the Act, including a flood exclusion under a home building or contents policy, should be required to be clearly marked in bold type of all insurance policies and renewal notices and should be boldly shown or told to consumers signing up to insurance online or over the telephone.

The standard cover provisions of the Act should be amended so that an insurer cannot successfully exclude standard cover events from a policy unless they have complied with this requirement and the requirement to provide the key facts sheet.

- 4 Implement last year's Senate recommendation to extend national unfair contract terms protections to insurance contracts.**
- Unfair terms in insurance contracts are a genuine ongoing community concern that needs to be urgently fixed. Unfair terms in insurance contracts affect the way claims are processed, handled and refused, resulting in significant stress, delay and unfairness to consumers.
- Insurance contracts are currently the only type of consumer contract excluded from the national unfair contract terms law under the new Australian Consumer Law. This was not intended under the original policy rationale driving the new law but occurred due to the particular drafting of the Act. This problem was recognised by the Senate inquiry into the new law last year and should be urgently fixed.
- 5 Implement a six month timeframe for determining insurance claims.**
- Unlike other financial services businesses, insurers do not currently have to meet any form of reasonable timeframe for a decision on a claim or dispute.
- The Government should ask the insurance industry to amend the General Insurance Code of Practice to require insurers to make a final determination on an insurance claim within a maximum 6 months from the claim being notified, unless there are exceptional circumstances.
- Equally, the General Insurance Code of Practice contains much slower timeframes on processing claims which are now outdated because of recent regulatory changes. The insurance industry should demonstrate its commitment to improving time to processing insurance claims by urgently amending the General Insurance Code of Practice. If the insurance industry does not make the required changes within 6 months, the Government should amend the Act to implement appropriate claims handling timeframes.
- 6 Encourage the industry to offer total replacement policies instead of sum insured policies.**
- ASIC investigations into home insurance after the Canberra bushfires and again after Cyclone Larry indicate that even with insurance cover, consumers will generally be under-insured, particularly after a mass disaster event. The major cause of this problem is the use of sum insured policies that require a consumer to guess the cost of rebuilding their home instead of total replacement policies that don't limit cover to a particular sum.
- Some insurers have moved to offer total replacement policies but more could be done. The Victorian bushfire Royal Commission highlighted that despite several significant natural disasters, we still haven't learnt the lessons of these tragedies, with under-insurance still a huge community issue. The Government should convene a working group with the industry and community to progress the widespread introduction of total replacement policies and promote their significant advantages to consumers over sum-insured policies.

- 10** **Establish a panel of independent hydrologists available to consumers in dispute with their insurer in flood damage claims.** Flood insurance claims often turn on when and how the water damage occurred. Insurers have access to expert hydrologists who can examine and given expert opinions on what caused damage to a consumer's home. Consumers are at a significant disadvantage in these disputes because they do not the ability to commission their own hydrologist report.
- The Government should require the industry to fund a panel of expert independent hydrologists, administered by the Financial Ombudsman Service, that are available to give free advice to consumers in disputes regarding flood insurance claims.
- 11** **Establish a flood legal and financial counselling program.** After disaster events, consumers need access to quality legal and financial counselling support to rebuild their lives, get their finances back on track, deal with potential creditors including their mortgage provider and help manage any disputes including with their insurer.
- The Government should provide funding to establish a Flood Help scheme, building on the Victorian Bushfire Legal Help model that leveraged pro bono contributions and Commonwealth and State funding.
- 12** **Refer a flood insurance inquiry to the Productivity Commission to investigate full flood cover for the Australian community.** Problems and gaps in insurance cover after a flood disaster impact on the entire Australian community.
- We need a full investigation into means of providing appropriate risk management and cover for the community against flood damage. This inquiry should consider, at a minimum, appropriate flood plain management, urban planning standards, building standards, and access to insurance cover in flood-prone areas either via private insurance or some form of national flood insurance scheme, as well as the operation of standard cover, the broader lack of access to insurance of people on lower incomes and ways in which insurers could develop and promote basic products aimed at lower and middle income consumers. It should also consider how we could implement better community awareness and education regarding insurance, including consumer rights and access to dispute resolution services.

