

The Insurance Brokers Code Compliance Committee (IBCCC) recently discussed compliance issues with 30 selected Code subscribers, including specific feedback on possible areas for improvement.

The common issues that came up with Code subscribers included:

- ➔ What constitutes a complaint
- ➔ How to deal with a complaint against an insurer
- ➔ Difference between a complaint and a Code breach
- ➔ Difference between a Code breach and a licensing requirement

### ***What constitutes a complaint?***

Service standard 10 of the Code defines a complaint as:

*an expression of dissatisfaction made to [a Code Subscriber] by you related to our Covered Services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.*

ASIC Regulatory Guide [165.80](#) outlines that companies need not capture or record a complaint or dispute if it is resolved to the customer's complete satisfaction by the end of the fifth business day.

The Code places higher obligations on its subscribers to record all complaints made, no matter how quick they were resolved. Therefore, the Committee recommends that all expressions of dissatisfaction, whether raised in writing or verbally should be recorded and dealt with in the manner outlined by the Code, even if resolved 'on the spot'. The amount of detailed information recorded might vary pending on the nature and complexity of the complaint.

### ***How to deal with a complaint against an insurer?***

The Committee recommends that insurance brokers record all complaints, regardless if they constitute a complaint against their company or which it believes should be a complaint against the insurer.

Service standard 5 of the Code states:

*We will discharge our duties diligently, competently, fairly and with honesty and integrity  
...when you have an insurance claim and we act on your behalf...  
...when we act for an insurer and not on your behalf...*

This service standard and its corresponding complaints process applies to insurance brokers regardless of whether they act on behalf of the client or an insurer. By recording all complaints, Code subscribers can obtain important information about potential issues its future clients may face with each insurer and can provide assistance accordingly.

In order to achieve good industry practice, the Committee recommends that Code subscribers:

- record all complaints it receives from clients, even if it considers that the complaint relates to the conduct of an insurer.
- review each complaint raised about an insurer to identify potential gaps in its internal process or sale of each product.
- be clear to its clients about what capacity they are acting: whether on the insurer's behalf or the client's behalf.
- if appropriate, assist the client to engage in the insurer's internal dispute resolution process and provide guidance to the client about the external dispute resolution process.

***What is the difference between a Code breach and a complaint?***

The key differences between a breach and a complaint are:

|                                      | <b>Code breach</b>   | <b>Complaint</b>  | <b>Comment</b>  |
|--------------------------------------|--|---|---|
| <b>Link to Code service standard</b> | Each breach can be tied to (and should be recorded against) a particular service standard of the Code.   | Can be about any element of the relationship between a client and a broker.   | The same event may give rise to both a Code breach and a complaint          |
| <b>Source</b>                        | Sometimes a breach of the Code will arise from a client complaint, but it is not necessary.  | Mainly, a complaint occurs when the client experiences a financial loss.  |   |
| <b>Review process</b>                | <ul style="list-style-type: none"> <li>• Recording of Code breach</li> <li>• Review of underlying cause</li> <li>• Review of breach magnitude (eg monetary amount involved, number of affected clients)</li> <li>• Remedial action taken (eg change of process, staff training)</li> </ul> | <ul style="list-style-type: none"> <li>• Recording of complaint</li> <li>• Conciliation of the matter with the client</li> <li>• If necessary, referral to external dispute resolution scheme</li> <li>• Resolution of complaint (eg payment, apology, reinstatement of cover)</li> </ul> | Ensure that there is a link between your complaint and your breach register |

***For example:***

A client complains that an insurance broker did not disclose that one of its representatives was acting as an agent of the insurer. This event should be recorded as both a complaint and a potential breach of service standard 3 of the Code.

However, a breach of the Code may not be identified through a client complaint. In the above example, if management identified it through a file review, that the representative did not disclose the capacity in which it acted, this should be recorded as a possible breach of service standard 3 but not as a complaint.

To ensure effective breach monitoring and reporting, the Committee recommends that Code subscribers:

- Review its complaints register to identify whether any complaints may also have caused a breach of the service standards of the Code.
- Be proactive in identifying breaches by undertaking regular file audits or process reviews.

***What is the difference between a Code breach and breach of a licensing requirement?***

Service standard 1 of the Code, requires Code subscribers to comply with all relevant law:

*We will comply with all law.*

Given the broad scope of this service standard, if a Code subscriber identifies that it has breached a licensing requirement, it will most likely also have breached service standard 1 of the Code (eg privacy obligations and obligations regarding dealing with clients in financial difficulty and debt collection activities).