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From: Tenancy No Reply
Sent: Friday, 7 June 2019 3:20 p.m.
To: Insurance Review
Subject: Response to Review of Insurance Contract Law quick form

What is your feedback on the overarching duties? Which option do you prefer and why?

My submission is specifically to do with Part Two, clauses 98 – 107 ‘Insurers have an incentive to underpay claims and sometimes use questionable tactics to settle’.

The overarching duties suggested are reasonable and, more importantly, are currently employed by General Insurers. They have significant oversight provided by the Reserve bank, The Ombudsman, The Fair Insurance Code and Principals of Insurance that is more than 300 years old – and media. During the recovery, the insurers strove to move claimants to resolution as fast as possible. It is suggested the review look at the example of the ‘Red Zoners’ who were deadlined to accept offers, either from the Government or their private insurer. This was, on the whole, hugely successful and there is not a single story anywhere of a Red Zoner feeling they were badly done by once their claim was resolved.

For the rest of complainants, the numbers were so great that triaging of needs had to be done – one of the hardest things to do (how do you triage an elderly couple living in a damp home against a young couple whose child is dying of cancer and have lost their only income and need funds urgently?). As the job was so big, it was inevitable that some people would become ‘the squeaky wheel’ in order to speed up their settlement, at the expense of someone more vulnerable. The national media became their loudhailer.

Although there are several instances where people feel their insurers acted in bad faith after the Christchurch earthquakes – NZ’s first true national disaster in modern times – the numbers of complainants are very small compared to the 650,000 claims made in that event. No doubt some of the complaints are valid – but in the absence of any evidence that accounts for the actual picture of satisfaction of the 170,000 claimants of the Christchurch disaster, any decisions made without that true picture could not be ‘safe’ decisions. It is suggested that the Financial and Insurance Ombudsman should have input regarding the number of complaints received during the entire recovery period and what the outcomes were.

Many examples have frustration with process and time taken to settle at the core of their complaint – to the point where in most complaints, any perceived slight was magnified and reported in dramatic fashion. I have examples of very satisfied customers who wouldn’t dare speak out about their positive experience with their claim settlement in fear of being vilified by the community – for either ‘being in the pockets of the insurers’ or ‘having the ability to pull strings’.

It must be considered that not a single member of the media would run any positive stories of the recovery or of individual’s good experience with their insurers. Again, I have examples of clients contacting multiple media outlets to tell their story and being denied that opportunity as it didn’t fit the narrative being promoted across all media streams. This extended to clients wishing to address media regarding dodgy ‘advocates’ – the media weren’t interested.

I believe that any review into these particular clauses will not be valid if the only examples being used are of negative experiences shared by the few. However, fear of telling positive stories in public still abound in post recovery Christchurch. In private people will discuss how great their resolution was but very few are prepared to speak publicly – even now. I feel that this particular part of the review should not be included until a TRUE understanding of the general experience is explored. Equally, I have grave doubts about the credibility of the figures provided by the ‘Claims management Service’ - see my further comments at the end of this submission.

If these specific clauses were to be removed, I would support Options 1, 2, 4, and 6.

What is your feedback on the options to improve product design? Which option do you prefer and why?

No comment

What is your feedback on the options to improve product distribution? Which option do you prefer and why?

No comment

What is your feedback on the options relating specifically to insurance claims? Which option do you prefer and why?

I don't feel this has any real practicality and any legislation required would be clunky and messy. In any claim, circumstances that cause the claim to arise may need to be examined in detail. Most claims are resolved as soon as the required information is provided, however if further info is required then resolution takes longer. Some of these claims end up on the Insurance Claims Register and review of those claims will give a good indication why they take time to resolve.

In a natural disaster, claims cannot be resolved fast as the external resources required to provide the necessary information for enormous numbers of claims are very thin on the ground - such as Loss Adjustors, engineers, geotechnical engineers, quantity surveyors et al. Especially if clients choose not to accept the decisions made by the insurers and they need to get their own information.

Equally, some claims are unable to be resolved until technical or policy interpretation is decided by the courts.

The Kaikoura event showed admirably that if insurers simply cash settle and not have a repair programme, claims are settled very quickly. Going forward, with many Sum Insured policies that are terribly underinsured, any future disaster will be settled even faster.

Christchurch can only be seen as a learning example. Laws put down for future cannot be based purely on the short falls of that event, especially when the Kaikoura event showed that when the cash settlement track was the only track to settlement, the settlements happened far more quickly. In other words, the insurers have already learnt from the Christchurch experience. To do so would make them onerous on all parties and not fit for purpose.

What is your feedback on the options for tools to ensure compliance? Which option do you prefer and why?

Agree with all options but only if they extend to any player entering the market as an 'advocate' (other than those doing unpaid charity work). The calibre of paid advocates (or 'Claim Management Services') after the Christchurch event was disastrous. They included an MC, a life insurance salesman, a convicted and bankrupted businessman, a discredited lawyer and a struck off Loss Adjustor, among others. I was asked to make a 2.5 hour testimony to the police for SFO consideration about a specific company who was making millions off the back of distressed home owners. The particular company has so far not been held to account by any overseeing agency despite having a FMA registration - though I hope this is rectified in the near future. The reports they pulled were consistent and devastating. I have evidence of people losing \$20,000, \$30,000 and more in unnecessary costs to these individuals.

What is your feedback on who the conduct regulations should apply to? Which option do you prefer and why?

Strongly support option 2 - to make sure 'Claim Management Service' companies are included.

What is your feedback on the initial preferred package of options?

Improvement is always a good thing but I am very uneasy at the validity of 'evidence' being used to make quite stunning statements about insurance claims settlements. Some statements in this paper defy logic.

Do you have any other general feedback?

I am disturbed at the figures used in Part Two, clause 101. I have my suspicions who the provider of the figures may be and ask that the data not be given any weight and should be removed from the paper altogether. I have direct evidence (and Dispute Tribunal proceedings brought by clients of this company) to provide to the review should they wish to examine the credibility of the figures they

have been provided. Testimony provided to the police about this particular Claims management Service may also be available if required.

Your name

Melissa Heath

Your email address

Privacy of natural persons

Your organisation

Residential Risk Analysis Ltd

In what capacity are you making this submission?

business

Other capacity

Privacy act/release

Can we include your name or other personal information in any information about submissions that we may publish?

yes

We intend to upload submissions to our website. Can we include your submission on the website?

yes

You may ask us to keep your submission, or parts of your submission, confidential. If so, you'll need to attach reasons and grounds under the Official Information Act 1982 for consideration.

no

You've indicated that you would like us to keep your submission confidential. Please give your reasons and grounds under the OIA that we should consider.