

# MOTOR VEHICLE INSURANCE AND REPAIR INDUSTRY CODE OF CONDUCT

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## CODE ADMINISTRATION COMMITTEE

## ANNUAL REPORT 2016

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**A**DMINISTRATION  
**C**OMMITTEE  
**PO Box 7115**  
**MELBOURNE VIC 8004**

The Motor Vehicle Insurance and Repair Industry Code of Conduct (Code) has been in operation since 1<sup>st</sup> September 2006. The Code is voluntary in all states and territories of Australia, other than New South Wales where it is mandatory. Over 2,000 smash repairers are signatories to the Code and over 30 Insurance companies, representing most major participants in motor vehicle insurance, are also signatories to the Code.

The Code Administration Committee (CAC), which is made up of three appointees from the Motor Trades Association of Australia (MTAA LTD.) and three appointees from the Insurance Council of Australia (ICA) is responsible for the administration, monitoring and promotion of the Code. In accordance with Section 13.2 (c) of the Code, the CAC has produced this Annual Report, for the period of 1 September 2015 to 31 August 2016.

### Meetings of the CAC

The Code Administration Committee members consist of representation from the Insurance Council of Australia, Mr Rob Bartlett – Suncorp Insurance, Mr Peter Hartman – Allianz Insurance and Mr Rod McDougall – Insurance Australia Group.

A number of changes were made to representatives of the MTAA during the period. Representing the Motor Trades Association of Australia (MTAA Ltd) are

- Mr Graham Judge – MTA NSW (replaced Mr Peter McMahon- MTA-SA during the reporting period),
- Mr Ben Kunstler - VACC (replaced Mr Geoff Gwilym - VACC during the reporting),
- Mr Jeff Williams - Australian Motor Body Repairers Association (AMBRA) (replaced Mr Wayne Phipps - during the reporting period).

The CAC would like to acknowledge the valuable contribution made by Mr Gwilym, Mr Phipps and Mr McMahon to the committee and the administration of the Code, in particular Mr McMahon as chair of the committee over a number of years.

The CAC met face to face on five occasions as well as two teleconferences during the reporting period.

### Code Administration

In accordance with the provisions of Section 13 of the Code the CAC carried out a variety of administrative duties, including the ongoing maintenance and updating of the Code website. The CAC will continue to promote the Code website, from which copies of the Code, annual reports and other general information can be obtained, and where full details on access to internal and external dispute resolution is available.

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The Code website is located at: [www.abrcode.com.au](http://www.abrcode.com.au). Signatories to the Code and other interested parties are encouraged to visit the website to obtain more information on the Code and its operation. The website is being upgraded in line with changes to the Code.

## External Review of the Code

During the reporting period the CAC continued to deliberate the recommendations detailed in the Executive Counsel Australia 2013 review of the Code.

After commencing its discussions in January 2014 and in consultation with the various stakeholders the CAC completed negotiations regarding the MVIRI Code of Conduct at the end of October 2015.

While the discussions were robust both parties could only agree to implement 6 of the 21 recommendations put forward by ECA. It was agreed that the outcomes reached should provide the stakeholders with a Code of Conduct that will suit an industry that has changed considerably since the inception of the Code in 2006. A new version of the Code replete with numerous changes, was announced for a go live date of 1 January 2016.

Some of the key outcomes agreed to are;

- Arbitration included as part of the dispute resolution process, it has been agreed by both parties to review this process twelve months after its commencement. This continues to be negotiated in the operational details.
- All disputes must be lodged through the Code website, which will undergo a rebuild to provide for reports to be available to the CAC to ensure both parties are meeting the requirements of the Code.
- A new clause has been created in section one highlighting the need for Signatories to behave in a professional and courteous manner.
- A section has been added to section four 'Code Approved Assessors' to ensure only assessors who meet the qualifications detailed can be engaged by insurance signatories.

The new Code was set for commencement on 1 January 2016. This is a significant achievement, with all Committee members committing a large amount of time and their valuable experience in reaching a balanced approach, and purposeful changes. It should be remembered that agreement from the MTAA and ICA is required and that CAC members reflect the instructions provided by their respective group.

## NSW Government engagement with the CAC

Following a 2014 NSW Parliamentary Inquiry into the Motor Vehicle Repair Industry that made several recommendations in relation to the Code of Conduct, the NSW Fair Trading Minister contacted the CAC seeking feedback and input on the progress of the Code review. This contact continued after the introduction of the 2016 Code and the CAC met with representatives of NSW Fair Trading and the Office of NSW Small Business Commissioner on May 2 2016. The NSW Small Business Commissioner has a particular interest in the dispute resolution process. The NSW Government have not repealed the mandated 2006 Code and adopted the 2016 Code at present.

## Dispute Resolution under the Code (IDR/EDR)

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One of the key principles of the Code is the provision of efficient, accessible and transparent dispute resolution to address disputes arising between individual repairers and individual insurers. There are currently two levels of dispute resolution available under the Code at the time of writing.

Where issues cannot be resolved between repairers and insurers at the local level the matter can be raised through the insurer's internal dispute resolution (IDR) mechanism.

Disputes that cannot be resolved following IDR can then be raised through the Code's External Dispute resolution (EDR) mechanism. The CAC has appointed LEADR/IAMA Mediation to provide repairers and insurers nationally with an easily accessible and cost effective EDR service. LEADR/IAMA Mediation changed its name to the Resolution Institute during the period.

While the CAC is required to report annually on EDR disputes, with the agreement of all parties it has been, and will continue to be, the CAC's intention where possible to report on both IDR and EDR disputes under the Code.

While the development of an electronic system to track internal dispute's lodged by repairers is ongoing, the changes to the Code require an IDR to be lodged through the CAC website. The website requirement allows the CAC to track the numbers of IDRs more closely, with the Chairman tasked to undertake this while an automated reporting system is developed.

Since the commencement of the new tracking process (March 2016) 158 IDRs were lodged via the website from 4 March to 31 August 2016. This tracking method will give greater transparency to IDRs and the issues they relate to. The numbers appear to have increased from previous years; until analysis of the IDR's is completed no meaningful conclusions can be drawn. Of the IDRs received all have been lodged by repairers.

During the full reporting period Resolution Institute reported that there were 2 EDR disputes raised. Both are still pending awaiting payment for mediations services, and agreement on a mediator. There have been some disputes raised directly with some state Small Business Commissioners, it is not known if these were Code related or not as no data has been advised to the CAC from these sources.

## **Role of CAC in Dispute Resolution**

Signatories to the Code are reminded that the Code Administration Committee plays no part in resolving disputes between insurers and repairers, beyond its responsibility to establish and maintain an easily accessible dispute resolution mechanism to support the Code.

Repairers unable to resolve a dispute with an insurance company at the local level can find details for access to IDR and EDR options on the Code website ([www.abrcode.com.au](http://www.abrcode.com.au)), or can contact their local trade association for further assistance.

Where evidence of systemic non-compliance with the Code on a company or industry wide basis is identified, either by repairers or insurers, such issues can be elevated to the CAC for consideration through the ICA or the MTAA (or other state trade associations), but otherwise the CAC plays no direct role in the dispute resolution process, or its outcome.

## **Summary**

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The Code continues to assist both repairers and insurers to achieve a balance of fairness in their dealings with each other. However, the CAC is confident that the agreements reached by ICA and MTAA representatives at the time of writing will provide a clearer pathway for both sides of the industry. Changes to the Code have received mixed reviews but there is general support for the ongoing reform agenda of the Code Committee. The work of the CAC continues on arbitration and further improvements.

In reaching these agreements the CAC also believes that while there will always be instances of dispute it is hoped that the new Code once released will be a behavioural change document leading to greater transparency between the two sides of industry.

The CAC acknowledges the input from MTAA Members and Insurance Council of Australia Members for their contributions which has assisted the CAC in their deliberations during the review of the Code.

**Peter Hartman**  
**Chairman - Code Administration Committee October 2017**

## **Insurance Company Signatories to the Code**

AAMI

Aioi Insurance Co Ltd

Allianz Australia Insurance Limited

AMP

Apia

Auto & General Insurance Company Limited

Bingle.com.au

CGU

Coles Insurance

Commonwealth Insurance Ltd

GIO

Insure My Ride

Just Car Insurance

Lumley

National Transport Insurance

NRMA Insurance

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QBE Insurance (Aust) Ltd

RAA Insurance Ltd

RAC Insurance

RACQ Insurance

RACV

SGIC

SGIO

Shannons

Suncorp – GIO

Swann Insurance

TIO

VERO Insurance Ltd

Youi Insurance

Zurich Australian Insurance Limited