

Motor Vehicle Insurance and Repair Industry Code of Conduct

CODE ADMINISTRATION COMMITTEE

ANNUAL REPORT 2009

Code
Administration
Committee
PO Box 7115
MELBOURNE VIC 8004

The Motor Vehicle Insurance and Repair Industry Code of Conduct (Code) has been in operation since 1st 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. Twenty-three 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) 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 12.2 (c) of the Code the CAC has produced this Annual Report, for the period of 1 September 2008 to 31 August 2009.

Meetings of the CAC

The CAC met on three occasions during the reporting period with two of these meetings being held in Melbourne and one in Sydney.

The ICA made one change to its representatives on the CAC with Mr Tim Jeffcoat from Suncorp being replaced by Mr Trevor Lawler from Allianz. Maureen Joseph from AAMI and Chad Vigar from IAG are the other ICA representatives; unchanged from the previous year. MTAA also made one change to its CAC representation during the year, replacing Ms Sue Scanlan from MTAA with Mr Gunther Jurkschat from VACC who returned to the CAC after a short absence. James McCall from MTA-NSW and Phil McGilvray from MTA-ACT are the other MTAA representatives; unchanged from the previous year.

The sincere thanks of the CAC are extended to both Mr Jeffcoat and Ms Scanlan for their valuable contribution not only as members of the CAC since its inception in 2006, but also as active participants on the initial Code Implementation Task Force.

It is the CAC's intention during the coming 12 months to focus on a program of consultation, especially with repairer trade associations not currently represented on the CAC, and meetings will therefore be scheduled in Western Australia, Queensland and South Australia for this purpose.

Code Administration

In accordance with the provisions of Section 12 of the Code the CAC carried out a variety of administrative duties, including the ongoing maintenance 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 downloaded and where full details on access to internal and external dispute resolution is available.

The Code website is located at: 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.

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External Review of the Code

In accordance with the provisions of Section 12.2 (f) of the Code the CAC is required to conduct an external review of the operation of the Code every three years from the commencement of the Code. During 2009 the CAC engaged the services of ICDPA to conduct this review with its report to be released in March 2010.

NSW Office of Fair Trading (OFT) Review of Code

Whilst the Code is voluntary on a national basis, in NSW the Government has mandated the Code under the provisions of the Fair Trading Act 1987 (NSW). In 2008 the OFT conducted an independent review of the Code, publishing its report in September of that year. The OFT concluded the Code was operating well, had the support of the motor vehicle repair and insurance industries, and did not need to change from its current form. These comments concurred with the conclusions reached by the CAC in its internal review of the Code in 2007.

Dispute Resolution under the Code

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 two levels of independent dispute resolution available under the Code. Where issues cannot be resolved between repairers and insurers at the local level the matter can be raised through the insurance company'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 Mediation to provide repairers and insurers nationally with an easily accessible and cost effective EDR service.

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

For the period 1 September 2008 to 31 August 2009, a total of 62 matters were raised through IDR nationally, across all signatory insurance companies. For the same period no EDR disputes were raised. There have been a total of 95 IDR's, and only 4 EDR's, raised since the Code's inception in September 2006.

The CAC is pleased to note the increased level of IDR activity over the last 12 months as the effectiveness of the Code is dependent on the existence of a rigorous review process and the willingness of parties to confidently raise matters of dispute through that process without fear of repercussions.

When considered in the context of the more than a million motor vehicle claims managed by signatory insurers each year, the level of IDR activity is extremely low, even allowing for the increase reported in 2009. The CAC therefore concludes that the vast majority of matters continue to be resolved at the local level between insurers and repairers, as was intended.

Notwithstanding that, the CAC recognises that it has a continuing role in promoting the IDR and EDR processes to both insurers and repairers and in particular notes the views of repairer representatives that their members continue to express reservations about lodging IDR and EDR notifications because of their concerns about the impact of such action on their future relationship with the relevant insurer.

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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), 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

The Code Administration Committee continues to believe the establishment of the Motor Vehicle Insurance and Repair Industry Code of Conduct has done much to improve the relationship between the insurance and smash repair industry. The transparency and accountability the Code has brought to the industry is a positive initiative for both insurers and repairers, as are the improved channels of communication that have been opened through the Code.

The Code Administration Committee remains confident that the Code has already gone a long way towards delivering on its intended purpose of promoting transparent, informed, effective and co-operative relationships between smash repairers and insurance companies based on mutual respect and open communication, and will continue to do so.

The External Review of the Code currently underway will allow all parties to again raise any issues or suggestions they may have to further enhance the effective operation of the Code and the CAC looks forward to considering any matters raised in the report to be released in 2010.

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Insurance Company Signatories to the Code

AAMI

Allianz Australia Insurance Limited

Apia

Auto & General Insurance Company Limited

CGU

Just Car Insurance

Lumley Australia

Mutual Community General Insurance

National Transport Insurance

NRMA Insurance

QBE Insurance (Aust) Ltd

RAA Insurance Ltd

RAC Insurance

RACQ Insurance

RACV

SGIC

SGIO

Shannons

Suncorp – GIO

Swann Insurance

TIO

VERO Insurance Ltd

Zurich Australian Insurance Limited