

**Submission by the**  
**Financial Rights Legal Centre**  
**CHOICE**  
**Consumer Action Law Centre**  
**Westjustice**

House of Representatives Standing Committee  
on Economics

Inquiry into insurers' responses to 2022 major  
floods claims

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November 2023

## About us

### **Financial Rights Legal Centre**

Financial Rights is a community legal centre that specialises in helping consumers understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies, and the Mob Strong Debt Help services which assist Aboriginal and Torres Strait Islander Peoples with credit, debt and insurance matters.

### **CHOICE**

CHOICE is the leading consumer advocacy group in Australia. CHOICE is independent, not-for-profit and member-funded. Our mission is simple: we work for fair, just and safe markets that meet the needs of Australian consumers. We do that through our independent testing, advocacy and journalism. To find out more about CHOICE's work visit [www.choice.com.au/campaigns](http://www.choice.com.au/campaigns)

### **Consumer Action Law Centre**

Consumer Action is an independent, not-for profit consumer organisation with deep expertise in consumer and consumer credit laws, policy and direct knowledge of people's experience of modern markets. We work for a just marketplace, where people have power and business plays fair. We make life easier for people experiencing vulnerability and disadvantage in Australia, through financial counselling, legal advice, legal representation, policy work and campaigns. Based in Melbourne, our direct services assist Victorians and our advocacy supports a just marketplace for all Australians.

### **WEstjustice**

Westjustice is a human rights and community legal centre in the Western Suburbs of Melbourne servicing the local government areas of Maribyrnong, Hobsons Bay and Wyndham, and the broader western suburbs community with a collective population of over a million people. We provide free legal advice, representation, education, community development, advocacy, and systemic reform across four impact areas: people experiencing economic injustice; people experiencing family and gender-based violence; youth; and culturally and linguistically diverse (CALD) communities.

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## Introduction

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The floods across the East Coast of Australia in 2022 have had a devastating effect on people that is still being felt today. Thousands lost their homes and were displaced from their communities. Many had problems with their insurance claims that exacerbated the stress and anxiety they were already feeling.

Consumer advocates, through client interactions and extensive research, have gained insights into the challenges people have faced with insurance before and after the floods. While home and contents insurance is pivotal for post-flood recovery, many affected people find themselves increasingly unable to access its benefits.

Our findings reveal significant delays and issues in claims handling, inadequate communication from insurers, confusing terms and definitions in home insurance policies, a systemic underinsurance problem and a lack of affordable insurance with premiums on the rise, as well as poor land use planning that requires immediate solutions. All of which have contributed to a complex and increasingly critical situation.

The repercussions of the floods also extend beyond financial strain. Consequences have been deeply personal, with individuals facing enduring emotional stress, trauma and strained relationships in the aftermath of the floods and to this day.

The 2022 floods have brought to light fundamental challenges in accessing and affording insurance across Australia. We view the government's inquiry into insurers' responses to 2022 major flood claims as a crucial opportunity to review and address these issues. Rectifying these problems with insurance will safeguard that it can be sustainable in the long term as natural disasters continue to increase in frequency and severity.

*"My tolerance has gone after 3 floods, so has my marriage - it exacerbates what's underlying [including my] kids' mental health - we needed to move to give them stability. I'd never buy in a flood prone area again – when you go through it, it's traumatic. It takes a mental toll. In my workplace there are farmer suicides. Over time we have to sell it, divorce requires it."*<sup>1</sup>

This submission is structured as follows

- **Claims handling:** We outline the experiences and key issues faced by insurance policy holders impacted by the floods in the claims handling process including:

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<sup>1</sup> Quote from a female, homeowner who was insured and experienced a flood in Windsor NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023

- significant delays;
  - poor communications;
  - poor quality assessors, assessment processes, and reports;
  - poor quality repairs;
  - issues with the cash settlement process; and
  - temporary accommodation.
- **Insurance contracts:** We examine the flaws baked into the design and supply of home and contents insurance and the very real impacts they have upon Australians when faced with the need to rely on them following the 2022 floods including:
    - the wild variance in terms and definitions for home and contents insurance policies;
    - the failure of the existing standard cover regime;
    - the lack of transparency in insurance pricing and the impact of risk mitigation on those prices; and
    - the lack of policyholder awareness that they are underinsured.
- **Affordability of insurance:** We look at insurance unaffordability and its disproportionate impact upon lower income Australians who occupy a greater proportion of housing in more disaster-prone areas. We make the case that:
    - targeted direct subsidies are needed to assist people with unaffordable insurance;
    - microfinance insurance products need to be further explored; and
    - an inquiry specifically into insurance affordability for lower-income households needs to be established.
- **Internal Dispute Resolution:** We present our insights into claimant experiences of internal dispute resolution processes.
- **Land use planning and disaster mitigation efforts:** Finally, we reflect upon our experience of working with policyholders to find out about risk, working with them to mitigate against their risks, and providing information about what they can do when the risk to their property is too extreme to be reduced. This experience has led us to call for the following:
    - accurate and consistent risk information be made available to consumers;
    - premiums should be lowered in line with risk mitigation and reduction;
    - rental properties must be made resilient to extreme weather events;

- lower income homes should be supported to make their homes more resilient;
- people in exposed housing need support; and
- governments need to provide funding for community-led conversations.

Throughout this submission we draw upon a large number of case studies from Financial Rights' work on the Insurance Law Service as well as data analysis of this work.

### Insurance Law Service: Flood and storm data January 2022 –September 2023

The Financial Rights Legal Centre provides advice to people impacted by floods mainly via our national Insurance Law Service, but we also take flood-related calls or emails through our NSW answer-point for the National Debt Helpline. In the 2021-2023 financial years we provided over 24,000 legal advice and financial counselling services. Over 6000 of those services were insurance related legal advice services and over 2200 of those calls came through our Disaster Priority phone-line. In the 2022-2023 financial year our Disaster Priority phone line received 1347 calls, a 53% increase from the year before.

For this inquiry, Financial Rights examined the data of all flood and storm callers and clients of the Insurance Law Service between 1 January 2022 and 30 September 2023.

Financial Rights provided a total of 1184 flood and storm-related services to 876 clients during the 21-month reporting period. This made up approximately 21% of all the insurance-related legal advice services provided to consumers during that period.

The figures quoted throughout this submission refer to this pool of flood and storm legal advice services. We have referred to client numbers in the main for simplicity's sake.

Note that:

- some clients received multiple services over time as their situation progressed,
- some clients and services involved multiple extreme weather events, and
- some experienced multiple issues with their claim and expressed multiple complaints about their insurer.

The data also pools flood and storm services and clients together over the reporting period since some people impacted by the 2022 events subject to the inquiry experienced the events as flood, some as storms and some as both.

This submission also draws heavily on 2023 CHOICE Research.

### CHOICE survey research 2023, *Weathering the storm*

CHOICE released a report in August 2023 titled 'Weathering the Storm: Insurance in a changing climate'. This report was produced in partnership with the Climate Council, Financial Counselling Australia, Financial Rights Legal Centre and the Tenants' Union of New South Wales.

To inform our research we conducted a nationally representative survey of home insurance policyholders (n=1037).<sup>2</sup> This research measured consumer understanding of home and contents insurance and asked people if they thought they had enough insurance to recover after an extreme weather event. The survey also asked consumers about their experience of insurance affordability and any risk mitigation measures they have taken.

CHOICE also commissioned interviews with 21 homeowners and renters to understand consumers' experience of the home and contents insurance market during and following extreme weather events.<sup>3</sup> The participants from around Australia has experienced a range of extreme weather events, although most commonly were flood affected. We were interested in the experiences and perspectives of both homeowners and renters. Most participants were homeowners (n=15) and a proportion (n=6) were people who rent.

The case studies throughout this submission that were contributed by CHOICE, have been extracted from our previous research. All quotes and case studies have been de-identified.

Finally, we provide the following summary list of recommendations.

## Recommendations

1. Insurers must better resource, and train employees, to communicate with consumers in a transparent manner, clearly informing them how their extreme weather event claim will be assessed and how their claim is progressing.

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<sup>2</sup> CHOICE Impact of Climate Crisis on Insurance research is based on a survey of 1,037 home and contents insurance policyholders. Fieldwork was conducted from the 15th to the 30th of June, 2023.

<sup>3</sup> CHOICE social research based on interviews with 21 homeowners and renters. Interviews conducted between January and April, 2023.

2. Insurers need to take a proactive approach to progressing delayed claims, and identifying vulnerable customers for whom to provide appropriate care.
3. ASIC's 2022 letter outlining its expectations of general insurers with respect to claims handling and severe weather events be codified either in the General Insurance Code of Practice, or be included in INFO Sheet 253.
4. ASIC and APRA should be resourced to collect and publish recurrent data on claims handling timeframes, outcomes and disputes.
5. A standardised industry approach should be established for exclusions that involve subjective assessments which insurers rely on including maintenance, wear and tear, defect, and pre-existing damage.
6. Insurers need to tell consumers what is required by an insured for a property to be maintained. Consumers need to know the minimum actions they need to take, to avoid future loss not being covered because they have failed to 'maintain' their property. This could be via a checklist of tasks with suggested time frames for the maintenance work. This should not be a substitute for the evidence proposed in point 6 – it should be a tool to support customers to maintain their properties rather than another reason to deny claims.
7. Where maintenance, wear and tear, defect, pre-existing damage or other exclusions are relied on or asserted then sufficient evidence should be provided by insurance assessors. We support the Legal Aid Queensland and the CGC who argue that the quality of reports prepared by assessors and experts must be improved by requiring reports:
  - a. identify what damage occurred to the property;
  - b. identify what reasonable maintenance has not been undertaken by the consumer;
  - c. outline whether the failure to maintain would have made a significant difference to the outcome and damage sustained to the property; and
  - d. identify and explain the causal link between the failure to maintain and how that resulted in a significant contribution to the damage sustained to the property;
  - e. be conducted by independent third parties, who are not appointed by insurers;
  - f. be provided in a standard format to obtain more consistent and higher quality input



8. Insurers should pool funds to allow consumers to obtain independent expert reports in a timely manner when they have complaints in AFCA.
9. Comprehensive training should be provided to claim consultants, to monitor decision making and introduce processes that ensure the consultants can identify and escalate expert recommendations that are not well substantiated; and ensure authorised experts are trained to make recommendations backed by sufficient evidence, consistent with standards and policies of the subscriber.
10. The insurance industry should establish a standard format for expert assessment reports to get more consistent and higher quality input.
11. Insurers should take into account fairness and vulnerability in the application of these exclusions and should develop mechanisms to provide extra support for vulnerable customers to maintain their properties before an insured event occurs.
12. Insurers need to better project manage and oversee third party contractors
13. The General Insurance Code should be amended so that,
  - a. if a consumer cash settles within 12 months of a disaster occurring, they have 12 months in which to ask the insurer to review the amount of the cash settlement if the amount is inadequate due to circumstances which were unforeseen at the time of the settlement; and
  - b. people should be directed to obtain legal advice regarding cash settlements before accepting the settlement.
14. Insurers should update policy designs to ensure that they meet the needs of policyholders in areas subject to extreme weather events including but not limited to increasing temporary accommodation provisions to at least 24 months, building in flexible approaches and proactively arranging temporary accommodation.
15. Alternatively, the Government should examine developing a standard for temporary accommodation in its review of natural hazard definitions.
16. Landlord insurance policies should include temporary accommodation for people who rent. Insurance companies should include cover for temporary accommodation for tenants in landlord insurance policies when their home is uninhabitable due to an insured event.

17. As a part of its announced review of natural hazard definitions, the Federal Government must re-examine the definition of flood, its impact on the market and the implications of the NRMA policy wording in undermining the intention of the standard definition.
18. We support in-principle the ICA's application to the ACCC to seek the ability to discuss the creation of a standard definition for "maintenance" and "wear and tear", however recommend that defect clauses and pre-existing damage, as related and similar terms be included in such a process.
19. A genuine standard cover regime should be introduced that includes the following characteristics:
  - a. a minimum set of basic default standards that meet community expectations below which insurers cannot fall;
  - b. a set of standard definitions for every inclusion, exclusion and commonly used term related to natural hazards;
  - c. a limited number of clearly defined levels of cover above basic, default standard cover which insurers can compete on, for example: basic default cover, premium cover and deluxe cover;
  - d. an ability to cover specific risks in addition to that included in basic, premium or deluxe standards to ensure unique individual risks are insurable, if not available under standard cover.
20. Insurers should be required to:
  - a. identify the components of an insurance premium that are based on natural hazard risks for new and renewing home and contents policies;
  - b. provide full explanations of any premium increases that relate to risk;
  - c. share all known natural hazard risks impacting a property with the policyholder in a plain English format.
  - d. reflect any risk mitigation measures in the premium and explain this to the policyholder.
21. Insurers should be required to proactively warn consumers when they suspect policyholders are likely underinsured. This should be done in a meaningful way that encourages consumers to actively respond by confirming they have reviewed their sum insured amount.
22. Subsidise insurance for people who can't afford it. The Federal Government should trial subsidies for insurance for people who can't afford it, particularly for people on low incomes.

23. Federal and state governments should expand funding for trials of microfinance insurance products to provide protection for people on lower incomes.
24. The Federal Government should conduct an independent review of the current and future affordability of home insurance, particularly for households on lower incomes in extreme weather prone areas.
25. Insurers should adequately resource IDR and better train IDR staff, including to critically analyse expert reports and investigate the circumstances of a claim.
26. Insurers should continually analyse claims handling metrics and complaints to more effectively respond to emerging systemic problems and pro-actively manage complex or drawn-out claims.
27. Governments should work together to develop a Hazard Risk Database that provides easily understood, publicly available information on current and future climate risks to individual properties. This Database should include data on the risk of floods, cyclones, bushfires and coastal erosion.
28. Insurers should be required to consider relevant property-level mitigation measures in any new or renewing insurance policy, and to demonstrate how those measures have been reasonably reflected in the proposed premium.
29. Insurers should be encouraged to offer multi-year premium discounts commensurate to mitigation works.
30. Governments and insurers should provide advice on mitigation measures that people could take and provide free assessments for people who have undertaken mitigation on their homes.
31. State and territory governments should amend residential tenancy laws to require landlords to take reasonable steps to make rented homes resilient to climate risks.
32. Allocate financial assistance for mitigation measures. Governments should allocate sufficient funding to assist property owners on low incomes and social housing providers in disaster-prone regions to undertake approved, cost-effective property-level mitigation measures.

33. Plan for relocation of communities at high risk National Cabinet should agree on a clear and consistent approach to supporting relocation of communities that face high risk of natural disasters.
34. Fund community engagement Governments should provide funding for dangerously exposed communities to undertake consultations about ways to mitigate future risk, including the possibility of relocation.

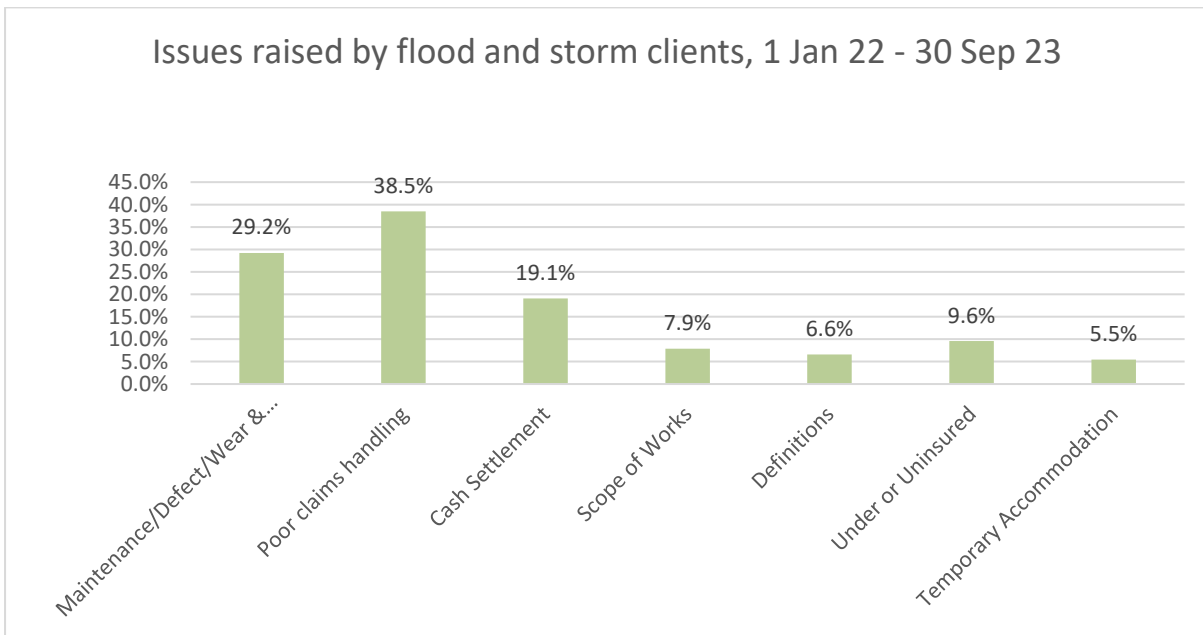
# 1. Claims handling

## **Term of Reference 2(a): The experiences of policyholders before, during and after making claims**

*"[We lost] \$117,000 in the flood. The first few days after the flood I had a breakdown, I got medical help. Have been living in our caravan for four months. Living in a caravan, [with] ongoing delays, it's stressful and wearing us out. I often spend three hours or more on hold – it does your head in - I know they're busy, but I don't get a call back. When I go back to the house I go to water the garden and used to look through the window, but not much now. I think, "my god is this my home?".<sup>4</sup>*

The vast majority of consumers impacted by the 2022 floods that Financial Rights speak to and work with on the Insurance Law Service (**ILS**) are those who have experienced a problem with their insurer at claims time. And of these policyholders, their experience before, during and after making a claim has been poor.

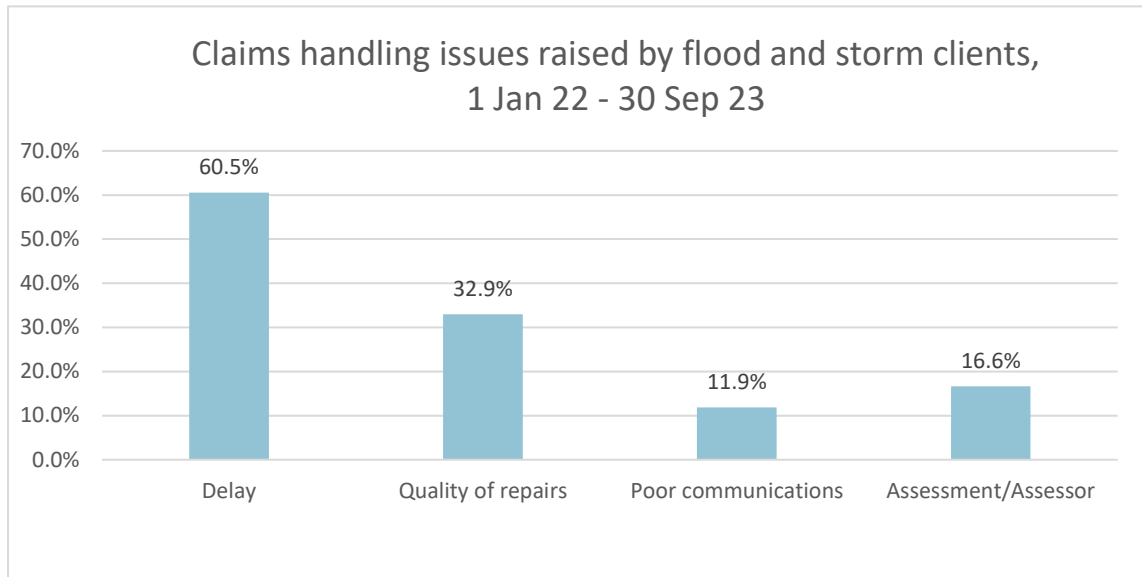
When examining ILS data of the people impacted by storm and flood events between January 2022 and September 2023 (nearly 1200 services) the most common issue brought up was poor claims handling. Poor claims handling was raised by 39% of all flood and storm clients during this period.



<sup>4</sup> Quote from a female, homeowner who was insured and experienced a flood in Rochester, Victoria. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

Poor claims handling can be a bit of a catch-all phrase but at a high level involve the following issues:

- a. significant delays
- b. poor communications
- c. poor quality assessors, assessment processes, and reports
- d. poor quality repairs



In addition, we see the following issues arise during the claims handling process.

- issues with the cash settlement process
- temporary accommodation

We step through each of these issues below.<sup>5</sup>

### **a. Significant delays**

#### ***Term of reference 2(c) Timeframes for resolving claims***

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<sup>5</sup> These issues are also reflected in research conducted in July 2022 by academics from the University of Melbourne: Bourova, E., Ramsay, I., & Ali, P. (2022). The arduous work of making claims in the wake of disaster: Perspectives from policyholders. *Geographical Research*, 1-15. They examined the claims experiences of 30 policyholders recruited via Financial Rights. This study found that the key issues involved:

- Poor communication
- Onerous document requests
- Problems involving assessors and make-safe workers
- Poor outcomes for recipients of cash settlements
- Difficulties in complaints processes
- Delays and negative impacts arising from unsatisfactory claims outcomes

In short the research found that the claims process was “arduous and confusing” and insurer handling processes may not comply with the industry code of practice.

Many Financial Rights clients felt their insurance claim took too long to resolve. Delay was raised by 60.5% of clients who complained about the claims handling process, or 23.3% of total storm and flood clients.

It is important to acknowledge that in many cases, delays are unavoidable and not necessarily the fault of the insurer. This was particularly the case in 2022 when there was an unusually high number of flood events which affected many claimants during a short period. Insurers struggled to engage builders and assessors in the timely way they might have otherwise done. There is evidence (including in the ASIC claims handling Report 768<sup>6</sup> and recently released Deloitte Report<sup>7</sup>) that insurers have settled the vast majority of flood claims this year in a timely manner.

However, delays in insurance claims handling are particularly significant for victims of flood events whose lives have been destroyed or turned upside down.<sup>8</sup>

#### **Case study 1. Priscilla's story- Financial Rights, S290909**

Priscilla contacted the ILS for help in April 2023. Her home had been damaged in February 2022 and she had made a flood claim but a year later the insurer had still not finished assessing her property. Priscilla said it would be another 6 weeks before the insurer would provide a response as to next steps. Priscilla was concerned that the property was not secure and mould is now growing.

Priscilla was looking for assistance to understand her rights to temporary accommodation due to confusing language in the PDS about establishing the rentable value of the home prior to the damage that was nearly 18 months prior.

To date the insurer had indicated that all floors, the kitchen, and bathroom have to be replaced. They indicated it would cost more than the \$380,000 she is insured for. Quotes and time frame for repairs indicate that the repair will take 6-12 months. As such, she is considering whether to cash settle because it is taking too long with the insurer.

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<sup>6</sup> Australian Securities & Investments Commission, [Navigating the storm: ASIC's review of home insurance claims: Report 768](#), August 2023.

<sup>7</sup> Deloitte, [The new benchmark for catastrophe preparedness in Australia A review of the insurance industry's response to the 2022 floods in South East Queensland and New South Wales \(CAT221\)](#) October 2023.

<sup>8</sup> Australian Treasury, [Natural Disaster Insurance Review Inquiry into flood insurance and related matters](#) September 2011. The National Disaster Insurance Review Report highlighted the role of insurance in community recovery from natural disasters. In particular it highlighted the impact delays in insurance have on victims with "those with damaged homes in limbo and unable to undertake repairs or return to their homes"(para 1.36) as well as the community by inhibiting its ability to recover (para 1.39).

### **Case study 2. Sarah's story- Financial Rights, S283555**

Sarah lodged a claim on her home and contents insurance after a storm damaged her house including lifting off her roof. She called the ILS in late 2022 for assistance in dealing with her insurer as her temporary accommodation was going to run out in a few months. There had been multiple delays in reports and there were disputes about the scope of works. She was finding it stressful to deal with the claim as she is a carer for her husband who has dementia and he became distressed and agitated when she was on the phone to the insurer.

Her claims manager lodged an initial internal dispute on her behalf based on the advice we had provided. While we were waiting for documents we assisted Sarah with negotiating cash settlements for the blinds that had been assessed as unsalvageable and for removal costs.

We also lodged regulator complaints with ASIC and Code Compliance Committee for poor claims handling and breaches of the General Insurance Code of Practice.

She was initially offered an additional payment due to the delays and agreed to a new scope of works, which resulted in an increase in the cash settlement for the repairs. Due to further delays associated with the further scope of works, Sarah also offered additional funds for temporary accommodation.

Delays in repairs to one's home can move someone from a vulnerable situation into a situation that is intolerable and damaging to their health. In storm or flood claims, delays in repairs often lead to problems with mould and associated serious health concerns.

### **Case study 3. Carmen's story- Financial Rights, S295380**

Carmen's NSW home was impacted by a storm in March 2022. Her insurer denied her claim for varying reasons, including lack of maintenance. Her insurer then asserted that the mould in Carmen's home was due to rising damp which is not covered under her policy.

Prior to contacting us, Carmen had gone through an internal dispute resolution process and also lodged in AFCA. Her claim was finally accepted by the insurer in February 2023.

Carmen contacted us after she had lodged in AFCA for a second time. She was concerned about how her claim was being handled, especially the poor communication



from the insurer, which she felt was often contradictory. She was also unhappy with the mould remediation report the insurer had provided, as she felt it was not as comprehensive as the report she had obtained. She was also concerned about her temporary accommodation allowance expiring before her home was safe to return to. Carmen says that due to the delays associated with the claim being accepted, the mould had spread and caused further damage.

Carmen and her partner recently sold their business and could not start a new one because they were living in temporary accommodation. They were not receiving any income while they were unable to run a business and were in financial hardship. The financial hardship and stress of the situation impacted Carmen's mental health.

The negative impact of delays upon a policyholder's experience is further exacerbated by poor communications. The time between a flood event and a claims assessment is critical. Consumers do not have much visibility as to how their claim is triaged. Someone claiming may have no idea how long it will take or what challenges the insurer may be facing in relation to a particular event.

Some insurers manage communication and transparency better than others. Financial Rights understands that one insurer texts consumers with regular updates, while others effectively leave their consumers in the dark until arriving at a decision.

The problem of transparency and communication has been identified by ASIC in its recent Report 768. ASIC listed "better communications to consumers about decisions, delays and complications" as the first primary area for improvement when it came to the home insurance claims handling experience for consumers.<sup>9</sup>

An additional contributor to claim delays is caused when multiple assessments of a property are needed. Sometimes this leads to a back and forth assessment between a consumer's independent assessor and that of the insurer but delays can also be caused by an insurer's dissatisfaction with an initial assessment or scope of works and seeking a second or third quote for repairs.

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<sup>9</sup> Australian Securities & Investments Commission, [Navigating the storm: ASIC's review of home insurance claims: Report 768](#), August 2023.

#### Case study 4. Yanni's story- Financial Rights, S290422

Yanni's home flooded in February 2022. His insurer accepted his claim, but then sent out a floor board specialist who opined that the drainage may not have been adequate. The insurer said they would cash settle because of this.

Yanni disputed this outcome and said it was not appropriate for a floor board specialist to be giving an expert opinion on drainage. The insurer then sent out an engineer, who said the drainage looked fine.

The insurer then said they'd get another builder to quote, and if they can warrant the work, will go with them. Four months after the second builder visited, there was still no report or quote. The insurer again offered to cash settle based on the fact that the floor board specialist said that they can't warrant the work.

Yanni has rejected the cash settlement offer because he doesn't want to lose the lifetime guarantee. The insurer now wants to send out the assessor, engineer and builder at the same time – which would be the 9th time they have inspected. He suspects they are looking for another reason not to do the work.

Yanni said the insurer has alluded to some previously repaired damage that happened before Yanni became the owner over 10 years ago. If there was previous damage that was repaired, this may not be relevant to the damage, since the damage was clearly not caused by poor quality repairs but by the flood.

See also case studies below:

- **Erin's story**, with large numbers of people attending a property to assess damage following a storm,
- **Daphne's story** who had a total of 13 assessors attend her property; and
- **Bill's story** who had 5 insurer assessments and his own.

#### **b. Poor communications**

##### ***Term of reference 2(e) Insurer communication with policyholders***

Poor communication between insurers and their customers is a regular source of dissatisfaction. Poor communications was raised by 5% of all flood and storm clients or 12% of all those complaining about claims handling.

Poor communication by insurers after a flood event inevitably result in complaints, but of more concern, poor communication can result in withdrawn claims that are otherwise valid. Financial Rights observes consistent frustration from consumers with timeliness and quality of

communication. In long and complex claims consumers end up feeling neglected, frustrated and overwhelmed.

The following list (and example case studies) outlines the common issues that consumers face with respect to poor communications following the 2022 floods:

- Insurers not providing clear information about the claims process, what the consumer is covered for, or what they will repair.
- Consumers feeling pressured, bullied or misled by claims managers, assessors or builders;

#### **Case study 5. Jill's story - Financial Rights, C233411**

Jill lives in the Northern Rivers and was impacted by flooding in 2020 and 2022. The damage in 2022 was significant with a ceiling and roof needing to be replaced. The insurer offered a cash settlement for everything except the roof, asserting that the water damage that occurred was due to the lack of maintenance.

Jill felt the experience working with the insurer was difficult and the insurer did not consider her circumstances and vulnerabilities when communicating with her.

Jill is in her late 70's, does not have a computer or internet on her phone and does not have an email address. Her insurer's preferred method of communication was via electronic means, which is not Jill's preference. Jill was asked if a neighbour could receive emails for her. This felt like a breach of privacy to her, but when Jill declined this, she felt pressured into providing email addresses for her adult daughters, despite advising her insurer that her daughters live interstate and she could not pick up a printed email from them. Jill was advised that her daughters would only be emailed in exceptional circumstances however this was not the case. Instead they were emailed often.

Jill's daughter, Anne, felt that her claims manager would insist on talking to her about Jill's claim, despite Anne not knowing about the property. She did not live there, is not the policy holder and not the owner of the home.

In addition, Jill found out that her insurer had been emailing an address that belonged to her late husband who died 6 years ago, which was very distressing.

Since Jill lodged her claim she has found it difficult to communicate with her insurer's employees. Jill felt that manner in which she and her daughters were spoken to, did not promote trust. She felt that her questions about her policy and what was and was not covered were not adequately answered.

In addition, on a number of phone calls Jill felt like her concerns were being ignored and that she was treated rudely. It felt to Jill that just because she is older, that she was being treated like she was stupid. Anne also found her claim's manager's manner

inappropriate and felt he was demanding answers at times that suited him, even if it was not convenient for her to talk to him when he rang. On a number of occasions Jill ended the call with her claims manager as she felt abused by him.

The stress associated with dealing with the claim affected Jill's health, necessitating the claims manager during one call, to call for an ambulance on Jill's behalf.

Jill's insurer also lacked an understanding of the difficulties of living in more rural and remote areas. Her insurer insisted that she had to go to a hotel with a few hours' notice. The hotel they arranged did not have meals provided and when Jill questioned what she would do about meals she was told to use Uber Eats. Uber Eats however does not exist in the area and it is a 30km round trip to a town for a more substantial meal.

After raising a complaint Jill was given a new claims manager, but Jill had further difficulties with that person as well. The new claims manager phoned Jill and demanded permission to speak to Anne insinuating Jill had lost her faculties, and demanding to speak to her home care cleaner. Jill felt this was completely inappropriate as the cleaner has nothing to do with her property.

The new claims manager was also very abusive towards Jill and kept asking her why she hadn't completed the repairs to her roof. Jill had had difficulty booking tradespeople and is on a pension and cannot afford the quotes provided. Jill tried to explain this to her insurer but they still told her it was taking too long even when the delays were out of her control.

The pressure that occurred in the following case study included incorrect advice that led to serious consequences.

#### **Case study 6. Carrie's story- Financial Rights, S276868**

Carrie lives north of Brisbane with her First Nations husband. Carrie's home and contents were insured. The house was flooded in February 2022 when water came up to their knees. Carrie and her husband were rescued by boat. They made a claim on their insurance that night.

Counter to Insurance Council of Australia Advice,<sup>10</sup> Carrie's insurer would not allow Carrie to remove the wet things in her home, including carpet, couches, curtains. They told her that she needed to wait for the assessor to attend. Carrie called the claims teams and told them that her house was rotting and she needed someone out as soon as possible. Carrie was told that they would send an assessor out soon. They kept

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<sup>10</sup> Insurance Council of Australia, [Cleaning Up After a Disaster](#)

repeating to Carrie not to touch anything - it's like a "crime scene." Carrie recalls that insurer's representative told her over phone: "Your claim will be compromised if you do what you propose – this call is being recorded."

The insurer's assessor came 12 days later and attended the house several times, taking photos of everything. The assessor then put all the sodden things into two giant skips. There was mould all over the house.

Carrie subsequently made a complaint to the insurer on the basis that her house is now further damaged by mould since she was instructed not to enter the property and remove the wet contents. Carrie asserts that she begged them to allow her but they kept saying no.

The assessor returned and took video evidence of the house which now needs to be completely gutted.

Carrie's building is insured for \$250,000 and her contents insured for \$80,000.

The insurer told Carrie that they believe it will cost an extra \$15,000 over the \$250,000 that she was insured for to repair the home. Carrie was told that she is underinsured. The insurer asked Carrie what she wanted to do – she had the option of a cash settlement to rebuild for \$250,000 or she can have the insurer come in the next day and repair the property. They will "bash everything out and remove everything". Carrie was told that if she were to go ahead with that, the insurer will consider that as being too late for cash settling and that she would have to go through with the job and that she would have to pay the additional \$15,000.

Carrie asked her insurer why she should pay an extra \$15,000. If the insurer had been quicker to come to the property, or allowed her to remove the damaged items, the damage and mould wouldn't have been so significant. Even the assessor told Carrie that "the house had been let go" and "if only it had been cleaned up in first couple of days, it wouldn't be so bad."

Carrie regrets not entering the house and cleaning up the house after the floods. Carrie does not think that it's fair that she will be out of pocket for the amount of \$15,000 when it was due to her insurer's delay and incompetence that led to the additional damage.

- Insurers using third parties to communicate with consumers and dictating how the claim is progressing;

### **Case study 7. Francine's story - Financial Rights, S288771**

Francine is a pensioner. She lodged a claim with her insurer after a major rain storm in 2022. There was a lot of damage to her bathroom and water was everywhere. The insurer told her it would take some time to get an assessor out to her home. When the assessor did arrive he failed to do a make safe or even complete a proper inspection of the roof cavity. When Francine called the assessor to follow up he was very rude to her. He told her that her file was closed and to not call again.

Francine called her insurer and they told her she was welcome to get her own assessment done. Francine did this and her assessor found that the damage was caused by the storm. Her insurer offered to pay for some of the damage but that they believe there are maintenance issues and they will not pay most of the claim.

- Consumers being subject to unreasonable demands for documentation including being required to provide fully itemised lists of contents destroyed in total loss situations or being drip fed information requests;

### **Case study 8. Leslie's story- Financial Rights, S279787, C113986**

Leslie had a motor home insured for \$20,000. On two occasions in early 2022 his home was severely flooded and eventually destroyed.

Leslie lodged a claim under the policy in early 2022 and it was investigated. He attended a two hour zoom interview with the investigator and he was asked to produce a long list of documents. Leslie found this very difficult given his records were destroyed by the flood and his wife is very ill having suffered a stroke.

We raised a dispute that the requested documents were irrelevant and unreasonable.

The insurer accepted Leslie's claim and paid a cash settlement.

- Insurers refusing to acknowledge errors as well as being inconsistent, back-tracking or reneging on earlier commitments to consumers about a claim; and
- Insurers refusing to take responsibility for damage caused by their own third-party assessors or builders or damaged caused by the insurer's delay.

### Case study 9. Kim's story- Financial Rights, S295839

Kim's Queensland home was damaged by storms in 2022. She lodged a claim and it was accepted by the insurer.

The insurer engaged a builder to carry out rectification work in her home. In the course of the work being carried out, the builders damaged some of Kim's furniture and vinyl flooring. The scope of works provided to Kim had outlined that the builders were to move furniture out before commencing work and they failed to do so.

Kim contacted the insurer about the damage, and was offered a cash payment of \$5000. Kim was happy to accept this amount.

Kim contacted the insurer again after the promised payment was not made. The insurer told Kim that the offer was made in error, as the damage was not a listed event in her policy and advised it was up to her to sort it out with the builder.

- Poor approach to people experiencing vulnerability. We assist many clients experiencing vulnerability including the elderly, disabled, people caring for children with disabilities, and people with mental illness. Often these consumers require considerable extra care, yet we regularly find insurers fail to provide them with it. See **Jill's story** above.

### Case study 10. Serge's story- Financial Rights, C234040

Serge is in his mid-70s and has lived on a rural property in regional Victoria for 45 years. In 2017, Serge was diagnosed with cancer, and the diagnosis is now terminal.

In October 2022, there was extreme rain over Serge's property. The insurer declined the majority of Serge's claim the following January, but did agree to pay Serge \$10,800 which he used to purchase a caravan because he could not live in his residence.

Among other things, the rain destroyed an access bridge to the property. This means Serge has no vehicular access to the property and has to walk 1 km to and from the property to get to his car.

Serge's insurer declined the claim because of a wear and tear exclusion. It concluded that the damage to the bridge was caused by flooding - which was excluded for bridges under the terms of Serge's policy. In declining the claim, the insurer failed to consider the hydrologist report that it commissioned, which was largely favourable to Serge, and also noted that the damage to the bridge was not caused by flooding (as defined under the terms of the policy).

Financial Rights started representing Serge in January 2023. We made a complaint to AFCA in February and in August 2023, we reached an agreement with the insurer through the AFCA process whereby the insurer agreed to:

1. Cover the bridge damage
2. Cover the overland flow damage to the main residence
3. Assess the fences and sheds for cover
4. Pay \$10,000 on an ex-gratia basis.

The insurer also paid Serge an additional \$20,000 (the remainder of his accommodation benefit) in August 2023 outside of the AFCA process.

The insurer continues to decline cover for all damage caused by water ingress via Serge's roof, which was accepted as part of the AFCA resolution.

We are continuing to represent Serge as is not yet clear how the insurer will assess the overland flow damage to the main residence, separate to the damage caused by water ingress via the roof.

It is standard practice for APRA to release data on life insurance claims and dispute statistics twice a year. The data encompasses industry-wide and insurer-specific statistics with a portion being presented in a consumer-friendly format on the ASIC's MoneySmart website.<sup>11</sup>

This practice could be replicated in the home and contents insurance market. ASIC and APRA should be resourced to routinely collect and publish home and contents insurance data on a recurrent basis. Home insurance data could include statistics regarding claims timeframes, outcomes and disputes. Sharing this data would drive industry wide improvements through increased transparency and reporting.

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<sup>11</sup> Australian Prudential Regulation Authority (APRA), 2023, Biannual life insurance claims and disputes statistics, accessed at: <https://www.apra.gov.au/life-insurance-claims-and-disputes-statistics>



ASIC and APRA could extend the capabilities of this data by developing a home and contents insurance claims handling comparison tool, like the one that exists for life insurance on ASIC's MoneySmart website.<sup>12</sup>

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## Recommendations

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1. Insurers must better resource, and train employees, to communicate with consumers in a transparent manner, clearly informing them how their extreme weather event claim will be assessed and how their claim is progressing.
2. Insurers need to take a proactive approach to progressing delayed claims, and identifying vulnerable customers for whom to provide appropriate care.
3. ASIC's 2022 letter outlining its expectations of general insurers with respect to claims handling and severe weather events<sup>13</sup> be codified either in the General Insurance Code of Practice, or be included in INFO Sheet 253.
4. ASIC and APRA should be resourced to collect and publish recurrent data on claims handling timeframes, outcomes and disputes.

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### c. Poor quality assessors, assessment processes, and reports

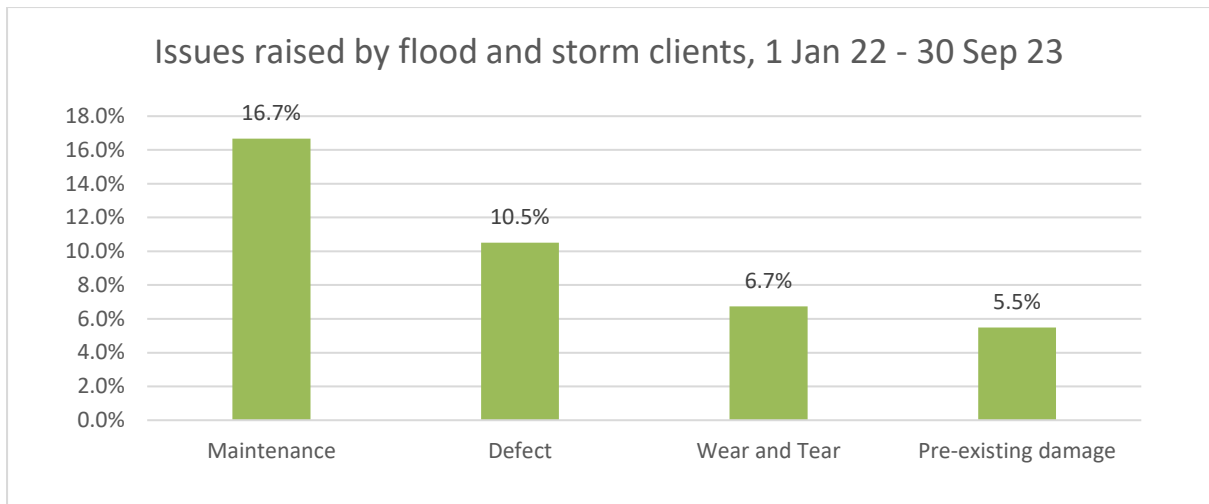
One of the key issues consumers called the Insurance Law Service following the 2022 floods was to seek advice about what to do when they have had their claim denied, or partially denied, following an assertion that there has been a lack of maintenance; the damage was caused by wear or tear; there is a defect in the property which resulted in the damage; or the damage was pre-existing.

Maintenance clauses were one of the most common consumer dispute issues identified in our legal advice notes for services related to flood between January 2022 and September 2023. Maintenance was an issue for 17% of clients. Defects were raised by 10% of clients, and wear and tear was raised by 7% of clients. When combined, maintenance, wear and tear, defect or pre-existing damage was raised by almost 1 in three flood and storm clients (29.2%).

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<sup>12</sup> Australian Securities and Investments Commission (ASIC), Life insurance claims comparison tool: Compare a life insurer, accessed at: <https://moneysmart.gov.au/how-life-insurance-works/life-insurance-claims-comparison-tool>

<sup>13</sup> ASIC, ASIC's expectations of general insurers: Insurance claims and severe weather events, 7 November 2022



In our experience, insurers, assessors and experts assert a lack of maintenance or wear and tear with little to no evidence. Often, there is just a one line justification in the assessor’s report stating the home may not have been properly maintained. It is common to see building assessments where no photographic or other evidence is provided to back up the poor maintenance or wear and tear assertions. The reports that are provided rarely, if ever, explain what maintenance should have been done, how that maintenance would have made a difference and do not outline the causation between the lack of maintenance and the end result. For example, evidence demonstrating that had the property been maintained to some reasonable extent then the damage (or most of the damage) would not have occurred.

**Case study 11. Arthur’s story - Financial Rights, S284800**

Arthur made a claim on his home building insurance policy in August 2022 after an unprecedented storm in July 2022. The hail from the storm damaged his roof and tiles and water entered the building.

Arthur had lived in this property for over 20 years and had never had water enter before.

The insurer’s assessors wrote a report that asserted that his roof was in a poor condition and maintenance and defect related issues were directly responsible or a contributing factor to the damage that exists.

Arthur insists that his roof was well maintained. He had major work completed on the roof in December 2017 and further maintenance work completed in May 2021. He holds receipts of this work as evidence. Arthur asserts that if these were maintenance/defect issues the roofer who completed maintenance work in 2021 would have identified these problems. In addition, Arthur has a handyman who cleans the gutters regularly as they are used to collect water for use around the property.

We have seen cases where insurers have asserted maintenance, wear and tear, or some other policy exclusion, but our client has just undertaken renovations, or recently purchased a property and holds either the receipts or the building reports.

#### **Case study 12. Joy's story- Financial Rights, C210874**

Joy claimed on her home building insurance after a storm damaged her roof, ceiling and floor boards. The insurer partially accepted the claim, agreeing to repair the ceiling and the floorboards. But it refused to repair the roof on the basis the damage was caused by poor maintenance of a rusted metal sheet on the roof. Four years ago, Joy's roof was damaged by a storm and the insurer also rejected the claim on the basis of poor maintenance. Joy said that at the time, she had repaired the roof by replacing damaged metal sheets with new metal sheets. She provided the invoices for the repair work done four years ago but the insurer hasn't budged.

#### **Case study 13. Maria's story- Financial Rights, S294902**

Maria lives in a regional Victorian town and is 70 years of age. Her sole source of income is the age pension. Maria made a claim on her home building insurance in October 2022 following a flooding event. The flooding has caused significant damage to her backyard shed.

It took 7 months for the insurer to inspect the property after the event. The insurer denied Maria's claim on the basis that the damage to the shed was not caused by the flood event, but rather due to soil movement and inadequately designed footings, which are exclusions within the policy. Maria has a building report from when she purchased the property in 2019 that says the shed was in good condition. She also has her own report that states the flood event caused damage to the shed.

#### **Case study 14. Denise's story - Financial Rights, S290970**

Denise claimed on her home insurance after a major storm did damage to her roof. Her insurer denied the claim saying there were maintenance issues with the home including poor ventilation and issues with her roof sarking.

Denise conducts regular maintenance checks and has evidence of this. The insurer also conducted repairs to her roof in 2018 under a separate claim and did not identify any issues with the ventilation or roof sarking.

Commonly the onus is placed on the consumer to gather their own evidence to rebut these vague assertions including obtaining expert evidence. Independent reports can be expensive – especially for those experiencing financial difficulty after an extreme weather event - and are hard to obtain – again particularly after an extreme weather event. If and when they do manage to obtain an independent report they are usually at odds with an insurer’s assertions about building defects or poor maintenance as the cause of damage.

The issue of assessments including assertions with little to no evidence is not solely restricted to maintenance, wear and tear, defect and pre-existing damage. It commonly arises with respect to reliance on other exclusions and covered events. The following example, is a one that involves an assertion that the cause of damage was ground movement rather than flooding, another fairly common cause of claim denial. Once a consumer has established that an insured event has occurred, the onus is legally on the insurer to prove an exclusion applies. In practice the burden is all too often on the consumer to disprove it.

#### **Case study 15. Bill’s story- Financial Rights, S295423**

Bill’s house was damaged in floods on the NSW Central Coast in October 2022. Water went under Bill’s house, causing piers to sink. Bill had them repaired himself, and made a claim to his insurer.

Bill was concerned that the insurer’s engineer didn’t inspect under the house when they visited, which he complained about at the time. The engineer’s report found that the piers sank due to natural ground movement, not due to the flood.

Bill disputed this and the insurer re-did the report multiple times, each time finding against him.

His insurer told Bill to get his own report. The engineer he engaged found the cause was indeed the flood, and also found another pier that had sunk. This reaffirmed Bill’s belief that his insurer’s engineer did not at any stage go under his house.

Bill contacted the ILS when his insurer asked to send another engineer out to his property to write another report – the 5th in total.

We have also seen reliance on a lack-of-maintenance exclusion after 2022 rain events of such magnitude that any newly installed gutters or downpipes were unlikely to have been sufficient

in any case. Many buildings free of defects or that had well-maintained drainage and guttering simply could not cope.

#### **Case study 16. Mira's story - Financial Rights, S282857, S283464**

Mira is divorced, and paying mortgage, has unstable casual work and is struggling to make ends meet. Mira's house was impacted by a torrential downpour which destroyed her balcony. Her insurer accepted part of the claim but said that damage to her balcony was the result of poor waterproofing rather than the storm and that they would not proceed to repair the house until the balcony had been stripped and re-waterproofed.

Mira disputed that the balcony was poorly waterproofed or poorly maintained. She had a regular contractor who had maintained the tiles and waterproofing. Mira was forced to obtain her own independent reports that demonstrated that the balcony had previous to the storm, been well maintained, kept in a good condition and that the storm simply was so big that it overwhelmed the gutters, caused the timber beams to expand which then caused damage to the tiling

Mira had no resources to repair the balcony herself and the insurer is saying they cannot proceed with the repairs they had accepted as their responsibility until she did.

We also see cases where insurers assert one exclusion and then move to another exclusion when evidence is presented to rebut the primary assertion. This is a complete reversal of the burden of proof that insurers carry when it comes to denying a claim based on an exclusion. Consumers should not be required to disprove an exclusion when they have already demonstrated a prima facie claim for covered damage. Consumers become understandably cynical that insurers are fishing for ways to deny their claim in cases where the reasons for denial shift as the claim progresses.

Another issue that arose during 2022 was that due to the lack of resourcing and stretched access to third party clean-up crews and assessors, insurers were forced to engage with service providers with little to no experience.

#### **Case study 17. Carrie's story continued- Financial Rights, S276868**

Carrie recently had a visit from the insurer's restoration team to pack up her stuff and create an inventory list. Carrie was not impressed. One of the men told her that it was his first day. All of the crew were under 20 years old. One turned up in car that had the words "I love Asian sluts" and other offensive things on it.

The restoration team suggested to her that some things could be restored, like mattresses, and would be recommending that it be cleaned. The mattress had been soaked in the flood and she doesn't want it back.

Carrie is concerned about some expensive bottles of alcohol going missing. The team were meant to check with Carrie about what items would be thrown out – yet they seem to have been removed. Carrie asked the restoration team to check whether they were itemised. They couldn't tell her and told her if she wanted to report them as stolen – it's a police matter. Carrie told them she just wanted to see the inventory.

The restoration company were there for four days. Carrie's neighbours texted to tell her that they were not actually working. When she approached them, they told her that the skip was full and had to wait the whole day for a new skip, rather than continuing to take stuff out of the house and take photos.

The over-reliance on poor or dubious expert reports is a systemic issue for the insurance industry. In its recent report on claim handling, the General Insurance Code Governance Committee Chair wrote:

*In examining the information, we found the quality of reports prepared by experts engaged by subscribers to be poor.*

*We saw too many reports that failed to provide a clear and demonstrable link between the cause of damage and the loss. We often read in the reports that wear and tear was visible and could have caused damage, but we did not always see sufficient evidence to justify the assessments.*

*This is a concerning finding because 45% of the expert reports we analysed offered a recommendation for a decision on the claim. While an expert may be technically proficient in a certain field, making a recommendation to accept or deny an insurance claim goes beyond that.*<sup>14</sup>

ASIC's recent review of insurance claims handling (REP 768 Navigating the storm: ASIC's review of home insurance claims) also accords with our experience helping clients with flood insurance claims.<sup>15</sup>

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<sup>14</sup> General Insurance Code Governance Committee, Making better claims decisions: a thematic inquiry. July 2023. Available at: <https://insurancecode.org.au/making-better-claims-decisions/>

<sup>15</sup> Australian Securities & Investments Commission, Navigating the storm: ASIC's review of home insurance claims: Report 768, August 2023. Available at: <https://asic.gov.au/regulatory-resources/find-a-document/reports/rep-768-navigating-the-storm-asic-s-review-of-home-insurance-claims/>

Our experience is that there is limited understanding by insurance staff of maintenance clauses in their own policies. This means they are inconsistently applied. Further they are asserted as a go to response without sufficient evidence. This is in addition to there being no consistent approach to maintenance clauses across the Industry. We explore these issues further under **Insurance Contracts** below.

Ultimately just because there might not have been 100% maintenance does not automatically mean an insurer can rely on the exclusion. Insurers need to show they are entitled to rely on the exclusion by establishing, with evidence, that the maintenance was reasonably necessary, that it did not occur and that it would have prevented the damage, rather than simply asserting the exclusion applies.

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## Recommendations

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5. **A standardised industry approach should be established for exclusions that involve subjective assessments which insurers rely on including maintenance, wear and tear, defect, and pre-existing damage.**
6. **Insurers need to tell consumers what is required by an insured for a property to be maintained. Consumers need to know the minimum actions they need to take, to avoid future loss not being covered because they have failed to 'maintain' their property. This could be via a checklist of tasks with suggested time frames for the maintenance work. This should not be a substitute for the evidence proposed in point 6 – it should be a tool to support customers to maintain their properties rather than another reason to deny claims.**
7. **Where maintenance, wear and tear, defect, pre-existing damage or other exclusions are relied on or asserted then sufficient evidence should be provided by insurance assessors. We support the Legal Aid Queensland and the CGC who argue that the quality of reports prepared by assessors and experts must be improved by requiring reports:**
  - a) **identify what damage occurred to the property;**
  - b) **identify what reasonable maintenance has not been undertaken by the consumer;**
  - c) **outline whether the failure to maintain would have made a significant difference to the outcome and damage sustained to the property; and**
  - d) **identify and explain the causal link between the failure to maintain and how that resulted in a significant contribution to the damage sustained to the property;**
  - e) **be conducted by independent third parties, who are not appointed by insurers; and**
  - f) **be provided in a standard format to obtain more consistent and higher quality input.**
8. **Insurers should pool funds to allow consumers to obtain independent expert reports in a timely manner when they have complaints in AFCA.**

9. **Comprehensive training should be provided to claim consultants, to monitor decision making and introduce processes that ensure the consultants can identify and escalate expert recommendations that are not well substantiated; and ensure authorised experts are trained to make recommendations backed by sufficient evidence, consistent with standards and policies of the subscriber.**
  10. **The insurance industry should establish a standard format for expert assessment reports to get more consistent and higher quality input.**
  11. **Insurers should take into account fairness and vulnerability in the application of these exclusions and should develop mechanisms to provide extra support for vulnerable customers to maintain their properties before an insured event occurs.**
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#### **d. Poor quality repairs**

Concerns about the quality of repairs is a common complaint from consumers dealing with unresolved insurance claims. Under the General Insurance Code of Practice insurers must take responsibility for the quality and workmanship of their authorised repairers.<sup>16</sup> Complaints about the repairer's conduct, timeliness, quality of work or the materials they use should be handled by the insurer through their complaints process.

While insurers are usually very good about accepting responsibility for poor quality repairs, it can take a long time and cause a lot of stress for the consumer before an insurer is satisfied that repairs require rectification. In the meantime, further damage from mould can turn a relatively simple claim into one that is costly and complex.

#### **Case study 18. Erin's story - Financial Rights, S289024**

Erin's home was damaged by a major storm in 2022. Her claim was accepted right away and initially there was a small amount of damage from water that came in through the ceiling. Erin's insurer sent out a builder but they did not complete the make-safe properly (at one point they put a tarp on the wrong house). The original builders did not repair the roof or damage properly and now the home is badly mould affected. Erin believes at least 90% of her contents have now been destroyed by mould because of the poor quality repairs. Months after the event Erin and her daughter (who both have physical disabilities) had to move out because of the unsafe mould conditions.

Erin has had a large number of people come to assess the damage since the original storm. Most recently an engineer came to property who argued that a lot of the damage

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<sup>16</sup> General Insurance Code of Practice, sections 86 and 87



was not caused by the storm. Erin agreed with him, because most of the damage has now been caused by the poor quality repairs.

Erin called the Insurance Law Service because her accommodation benefit was about to expire. She has not made a complaint to AFCA because her insurer told her that would delay her contents claim. Erin wanted the insurer to repair the property but given the conduct of the professionals they have sent she is now leaning towards accepting a cash payout.

See also **Carrie's story** above, which demonstrated how the lack of action or repair can lead to further damage and issues.

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## Recommendation

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### 12. Insurers need to better project manage and oversee third party contractors.

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#### e. Issues with the cash settlement process

##### ***Term of reference 2(a) the experiences of policyholders before, during and after making claims***

Cash settlement is a common issue raised by clients affected by storms and floods. One in five storm and flood clients (19.5%) from 1 January 2022 to 30 September 2023 raised an issue with cash settlement.

Deciding whether to accept a cash settlement in the wake of an extreme weather event like a flood is not easy. In many circumstances it may not be the best option for the insured person, although it may seem like the best resolution at the time. For people with project management, building or architectural skills and qualifications, or access to such skills, a cash settlement may suit very well. However, we also see people accepting cash settlements because at that moment it is a more attractive option than continuing to deal with the insurer, rather than being in their longer-term best interests.

We have seen numerous examples of cash settlements where consumers were offered the lowest quote obtained by an insurance company, without considering any of the additional challenges that a consumer is likely to face given they do not possess the same commercial experience, industry connections and bulk buying capacity as the insurer.

### **Case study 19. Karim's story- Financial Rights, S292046**

Karim's lives on acreage and has livestock (and a mortgage). His home sustained flood damage in November 2022. His insurer stripped the house in January 2023.

The insurer has offered Karim a cash settlement of \$125,000, however he is sum insured for over double that (\$355,000). Karim engaged a builder who has assessed the insurer's offer to be \$100,000 short of the amount needed to do the work.

Karim's insurer has paid around 14% of the sum insured towards a caravan for Karim to live in temporarily.

We also see over-reliance on cash settlement clauses placing all the burden to undertake the work on vulnerable clients. The following cases demonstrates this problem. In **Holly's story** when pushed, the insurer was in fact able to find an appropriate builder to warrant work for a vulnerable customer.

### **Case study 20. Holly's story - Financial Rights, C228771**

Holly is a 59 year old Aboriginal woman on Centrelink and suffering mental health issues. Holly's home was damaged by floods in March 2022 and she made a claim on her home building insurance. Pests have infested her home, including rats and cockroaches, and she is concerned about the effect of mould damage on her health. Holly also cannot shut the garage door properly and this means that the garage is not secure and she cannot leave the house.

The insurer tried to cash settle Holly on the basis that her property was not code compliant so could not warrant the work. This turned into a long battle for the insurer to arrange the repairs as it would be too difficult for Holly with all her personal challenges to arrange herself. The insurer finally conceded after almost 18 months that they could do the repairs (albeit with a different builder).

### **Case study 21. Mary and Gerald's story - Financial Rights, S290991**

Mary and Gerald's home was affected by a storm with their roof being badly damaged. Mary received a call from her insurer on a Friday at 5.30pm indicating that the claim had been approved and that they wanted to deposit a payout in her account as a cash settlement. Mary was not comfortable with this. Mary and Gerald live in a remote

community and are 81 and 83 years old. Gerald lives with significant health issues that require constant monitoring throughout the day. He is deaf, relies on a hearing aid and has mobility issues. Mary too is not well, and is living with medical conditions and physical disabilities. All of these would make coordinating and organising the repairs extremely difficult. Despite being aware of these issues, the insurer failed to offer any support, arguably in contravention of the General Insurance Code of Practice. The insurer asserted that there was a defect preventing them from warranting the repairs but did not describe what this building defect was, or why it would prevent its builder from proceeding with the repairs.

One issue that arose during the 2022 floods was confusion arising from the newly mandated Cash Settlement Fact Sheet (**CSFS**).<sup>17</sup> After receiving this factsheet many people who were receiving a cash settlement for a part of their claim, as an upfront emergency payment for example, became confused that they were being cash settled for the entirety of the claim. To remove this confusion ASIC issued legislative relief that allowed insurers to give emergency payments to consumers in certain circumstances without first giving them a CSFS.

We agree with Legal Aid Queensland that current CSFS needs to be updated with input from consumer advocates and plain language experts to include detailed information regarding the advantages and disadvantages of accepting a cash settlement.

#### **Case study 22. Ming's story - Financial Rights, S296332**

Ming's Sydney home was damaged in March 2022 floods.

The insurer's repairer quoted \$79,000 to make repairs, but Ming had 3 quotes prepared ranging from \$280,000 to over \$700,000.

Ming told us the insurer's repairer does not want to repair the property due to difficult access to the house – the road is steep and has a shared driveway, and the house is set well back from the road. They want Ming to take a cash settlement.

Given the huge disparity in the cost to repair, we recommended Ming did not take the cash settlement right away and instead raise an IDR dispute and consider taking the matter to AFCA if she was not happy with the insurer's solution. The risk of improperly costed repairs is a significant risk to Ming, and she would also not have the benefit of a lifetime warranty for repairs by her insurer, or any guarantee that other builders won't

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<sup>17</sup> The *Financial Sector Reform (Hayne Royal Commission Response) Act 2020* introduced a new disclosure obligation into the *Corporations Act 2001* requiring Australian Financial Services licensees (or their authorised representatives) that provide claims handling and settling services to give a CSFS in certain circumstances. The CSFS obligation commenced on 1 January 2022.

reject the job for the same accessibility reasons. The access issues are no doubt reflected in the higher quotes received by Ming. At the very least this cost should be reflected in the case settlement offer.

Cash settlements should be based on an actionable quote (by a builder who is willing and able to do the repairs at that price) and should all include a reasonable uplift to account for the transfer of risk from the insurer to the consumer. By cash settling the claim all the risks associated with the repairs are transferred from the insurer to the consumer for any blowout in the cost or extent of repairs required, or for dealing with the builder or repairers if the work is defective. Project management burden and risk also shifts to the consumer unless there is enough in settlement to cover these costs professionally.

### **Case study 23. Ahmed's story- Financial Rights, S295315**

Ahmed's house was flooded during the Victorian floods in October 2022. His insurer had done a number of assessments, but when he contacted us for help in August 2023, nothing had been done to rectify the damage.

Because the insurer was taking an extremely long time, Ahmed asked for a cash settlement. Ahmed sought his own quotes for rectification work. They were a lot more expensive than the amount insurer offered a cash settlement for.

The insurer then requested that Ahmed's builders provide their quotes in the same format as the ones the insurer uses. The builders have told Ahmed that it is a lot of administration for them to go back and do.

There is risk for Ahmed in taking a cash settlement from his insurer that is not based on an actionable quote. If Ahmed's insurer does not want to increase their offer (because Ahmed's own builders will not redo their quotes into a different format) he will likely be left with repairs that cost more than his cash settlement and he will not get a lifetime guarantee from his insurer.

Consumers need time and information to assess whether a cash settlement is the right option for them and whether it is the right amount. Problems can arise when insurers seek to rush the process and close claims as quickly as possible. Many consumers feel pressured and cash settle out of frustration with the claims and repair process. In many cases, the amount accepted seems adequate at the time, but does not in the end cover their costs, let along the additional risks.

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## Recommendations

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13. The General Insurance Code should be amended so that,

- a) if a consumer cash settles within 12 months of a disaster occurring, they have 12 months in which to ask the insurer to review the amount of the cash settlement if the amount is inadequate due to circumstances which were unforeseen at the time of the settlement; and
- b) people should be directed to obtain legal advice regarding cash settlements before accepting the settlement.

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### **f. Issues with temporary accommodation for homeowners and those who rent**

***Term of reference 2(d) Obstacles to resolving claims, including factors internal to insurers and external, such as ... temporary accommodation, ...***

Securing temporary accommodation is a common concern for policy holders. Temporary accommodation issues were raised by 5.5% of flood and storm callers but 8% of flood and storm services. This means that people received more than one-off advice on the issue, and may have had additional advocacy assistance.

#### ***Temporary accommodation for homeowners***

Many of the issues that arise relating to temporary accommodation are related to poor communication from the insurer. Often temporary accommodation is paid for by the insurer for a few months at a time. When the expiry date for a period of temporary accommodation is coming up, people become understandably anxious about what is going to happen. They want to know if payments for temporary accommodation will be extended, whether their home is habitable yet, whether their current temporary accommodation will remain available or whether they will need to move to a new location. Insurers do not always adequately communicate with their customers in time and the customer is left holding the bill for rental payments or is told by a temporary landlord that they need to vacate. This can be extremely distressing for anyone impacted by an insured event, but particularly for people with young families, older people, or other special needs, or people impacted by significant trauma as a result of the flood or storm itself.

#### **Case study 24. Ming's story continued - Financial Rights, S296332**

Ming had a long and complex claim with her insurer after her home was damaged by floods in March 2022.

Ming told us her insurer refused to put her family into long term temporary accommodation. Instead, they would approve short term stays for which Ming had to provide 3 quotes which the insurer would then approve and cash settle. Ming says that sometimes by the time the insurer approved them the quotes had expired/ or the proposed options would no longer be available and she would have to find new options.

The insurer then asked for evidence of payment for past accommodation before agreeing to pay for further accommodation.

Another common problem with claims involving extensive building repairs is that temporary accommodation benefits run out before the home is habitable again. Sometimes this is because temporary accommodation benefits in the policy are only for 12 months. Other times these benefits are a percentage of the total sum insured amount. Either way we have seen many examples of homeowners reaching the limit of their temporary accommodation benefits before their home has been repaired or rebuilt. One problem is that housing costs have gone up dramatically in recent years, and always increase after an extreme weather event. This means that policies which include temporary accommodation as a percentage of the sum insured get used up very quickly. For those policies that have a time limit (i.e. 12 months) we find that repairs and rebuilds regularly take longer than that. Policy limits for temporary accommodation should never be less than 24 months.

#### **Case study 25. Janine's story - Financial Rights, S285901**

Janine's home was flooded in 2021. Her claim was accepted and repairs were completed but Janine says the repairs were defective. Janine's home flooded again in February 2022 and she made a second claim on her insurance. Janine has a disability and has 7 children.

Janine's insurer put the family in temporary accommodation and began stripping out the property. The claim ran into a number of complexities including whether the property had enough drainage or whether some of the damage was a result of defective repairs by the insurer in 2021.

In November 2022 Janine called the ILS because her temporary accommodation was set to expire in the beginning of December 2022. When Janine was first told she could move her family to temporary accommodation she was approved to spend \$78,000. She looked at a couple of AirBnB properties but she missed out on these because the insurer delayed approving the Feb 2022 claim. Then she was told to look for a longer term lease. Janine found a property that was suitable for her family and submitted a lease but was then told that the insurer would only approve 4-6 weeks of accommodation since they believed the builders would have completed the works by then. Then the week she contacted the ILS she had been told the entire claim was being denied because the

insurer believes the damage was caused by inadequate drainage on the property. They will no longer pay for temporary accommodation.

Janine and her family will be homeless when the temporary accommodation expires. Her home is not habitable. It has no electricity, no kitchen and many of the walls are stripped out. The mould is still so bad you need a mask to enter the property. Janine has her own evidence that the property has adequate drainage, but by the time she resolves that dispute her and her children will have nowhere to live.

We have also come across a number of people who were entitled to temporary accommodation but were unaware of their entitlement and were not informed of their entitlement by their insurer. This simply exacerbates an already stressful situation.

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## Recommendations

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14. Insurers should update policy designs to ensure that they meet the needs of policyholders in areas subject to extreme weather events including but not limited to increasing temporary accommodation provisions to at least 24 months, building in flexible approaches and proactively arranging temporary accommodation.
  15. Alternatively, the Government should examine developing a standard for temporary accommodation in its review of natural hazard definitions.
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### ***Temporary accommodation for tenants***

People who rent are uniquely exposed by extreme weather events. Under tenancy laws in all states and territories, a tenancy will cease when a home is declared uninhabitable.<sup>18</sup> When large-scale disasters strike a region, people who rent are often displaced from their homes, schools, communities, family and faith-based groups. Others are forced to live in substandard and damaged homes to stay in the same area that rendered them homeless, putting their families' health at risk.

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<sup>18</sup> In some states it depends on who makes the 'declaration' that a property is no longer habitable. A landlord declaring a home uninhabitable is generally not enough and a state tribunal (like NCAT in NSW) has authority to decide if the parties disagree.

### Case study 26. Jacinta's story - CHOICE

Jacinta and her kids were renting in Brisbane and were affected by persistent rain in 2022. They did not have contents insurance:

"We didn't have contents insurance because of the asbestos in the roof and we did not plan to live there forever, but I live to regret that decision".

After days of persistent rain, they discovered there was water coming through the ceiling. The leaks started in the lounge and moved to the kitchen and bathroom. The real estate agent sent someone to put a tarp on the house. However, it did not work and continued to leak into her home. Jacinta said,

"There were buckets everywhere, I was worried about the kids as there was asbestos in the roof, so they moved to my mum's place".

The family made repeated calls to the real estate agent however the situation did not improve. At one point the real estate agent sent their father to inspect the asbestos in the roof and the family was told the house was habitable. Numerous notices to remedy were issued by the tenant and ignored by the real estate agent. Jacinta said the rain damage was widespread in her home:

"I bought a dehumidifier, mould was growing in the bedrooms, water ran into the cupboards, I couldn't shower, or sit on the toilet. I could not put anything anywhere".

The family ended up moving out of the home, having never received a discount in rent. They were taken to the tribunal for breaking their lease. The homeowner put the property up for lease again, without making any additional repairs.

The design of landlord insurance policies means that landlords receive all the policy benefits of financial support while a home is being repaired, while people who rent receive no direct or indirect benefit from a landlord's home insurance policy. Many people who rent do not hold contents insurance policies — even when they live in disaster-prone regions. In 2020 the Insurance Council of Australia released a survey which found that 74% of Australian renters did not have contents insurance.<sup>19</sup> Stakeholders who contributed to CHOICE's research suggested that this is because contents insurance is relatively expensive for limited benefit to renters, especially those on low incomes.

One way to improve the situation for renters is to make temporary accommodation for a tenant provision of their landlord's insurance policy. Adding temporary accommodation

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<sup>19</sup> QBE, [Six great unknown things about renters insurance](#), 30 Nov 2020



benefits in contents insurance policies would be less effective, given most tenants don't take out contents insurance due to its unaffordability. Adding temporary accommodation benefits to those policies would increase the cost of insurance cover for tenants, exacerbating the affordability issue.

Putting temporary accommodation benefits for tenants into landlord policies would be cost neutral for insurers. If a rental home becomes uninhabitable tenants would be moved to temporary accommodation and then keep paying the landlord. Currently landlord policies all include benefits for the landlord for lost rent since tenants do not need to pay rent while the premises is uninhabitable – but they are also homeless. We have heard from landlords that they wish they could help their tenants find a place to live while repairs are being done, but they have no way of doing that under existing landlord policies.

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## Recommendation

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**16. Landlord insurance policies should include temporary accommodation for people who rent  
Insurance companies should include cover for temporary accommodation for tenants in  
landlord insurance policies when their home is uninhabitable due to an insured event.**

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## 2. Insurance contracts

### **Term of Reference 2(b) The different types of insurance contracts offered by insurers and held by policyholders**

*“They make it so impossible - three pages of tiny print in language you don’t understand – it’s the insurance company’s responsibility to communicate clearly - most people don’t read it - where is the transparency from their end?”<sup>20</sup>*

The general insurance market is a ‘confusopoly’.<sup>21</sup> Home and contents insurance consumers<sup>22</sup> are faced with an almost soul crushing amount of information and choice in deciding which product to purchase to cover their risks - natural hazards or otherwise. This reduces market transparency and leads many consumers to be unable to make a genuinely informed comparison and choice, ultimately leading to poor outcomes at claims time.

How insurance contracts are designed, the way policy terms and definitions vary, and the coverage provided by each insurer via a confusing array of inclusions, exclusions, and definitions are central to the difficulties faced by consumers in obtaining insurance to cover their risks. Comprehending these differences and applying them to one’s own risk profile, if in fact known, is an almost impossible task even in the most ideal of circumstances.<sup>23</sup>

The flaws baked into the design and supply of home and contents insurance contracts lead to very real impacts upon Australians when faced with the need to rely on them – like during the 2022 floods.

These flaws can be summarised into four categories:

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<sup>20</sup> Quote from a female, homeowner who was uninsured and experienced a flood in Northern NSW. This person was interviewed as a part of CHOICE’s social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

<sup>21</sup> A confusopoly is one in which a group of companies with similar products who intentionally confuse customers instead of competing on price

<sup>22</sup> We have chosen to focus on home building and contents insurance since 85% of Financial Rights’ legal advice and casework services delivered to people with flood and storm-related insurance disputes since January 2022 concerned this form of insurance. Other forms of insurance that we see include motor vehicle insurance (6%), strata insurance (4%) and farm insurance (1.3%).

<sup>23</sup> Financial Rights research has found that even when consumers are provided with the ideal conditions to make a rational or optimal choice across a range of choice conditions in purchasing an insurance product based on PDSs and KFS, there is no simple and consistent effect of disclosure – ie there is no clear pattern of understanding where people were provided more or less disclosure information using currently mandated disclosure documents. Professor Justin Malbon, Professor Harmen Oppewal, [\(In\)effective Disclosure: An experimental study of consumers purchasing home contents insurance](#), September 2018

- a. terms and definitions for home and contents insurance policies vary;
- b. the existing standard cover regime does not work and leads to consumer harm;
- c. pricing and risk mitigation impacts are not transparent; and
- d. policyholders are unaware that they are underinsured.

**a. Terms and definitions for home and contents insurance policies vary**

*"I definitely read the fine print, but still find it confusing whether to claim [it] as storm or flood ... Before I took [the] initial policy in 2011 I read the PDS to make certain we were covered for flood - I find it difficult to work out what's building and contents."<sup>24</sup>*

Insurance policies have considerable variation in their terms and conditions, inclusions and exclusions. The lack of consistency prevents consumers from making informed decisions regarding their insurance policies. The variation also has very real impacts at claims time.

We provide two examples that impacted those who experienced the 2022 floods:

- the definition of flood;
- definition of maintenance, wear and tear, defect and pre-existing damage; and

***The definition of flood***

The Federal Government introduced a standard definition of flood in 2012. While there was reduced confusion about what was meant by flood, the lack of consistency in terms *related* to flooding, like storm water damage, rainwater runoff, even ground movement,<sup>25</sup> meant the confusion and problems continued.<sup>26</sup>

The vast majority of insurers either provide coverage for flood as a part of their home building and contents insurance bundle or provide the ability to opt-out of flood coverage. However, the NRMA took a very different approach. The NRMA decided to bundle the exclusion of 'flood' cover with exclusions for rainwater run-off and storm surge cover. No other insurer took

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<sup>24</sup> Quote from a husband and wife, homeowners, who were insured and experienced a flood in NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

<sup>25</sup> See **Maria's story** and **Bill's story** above

<sup>26</sup> Financial Rights found significant variance in flood and storm damage coverage when examining the market in 2021. We found that 65% of insurers considered flood and storm as separate insured events while 35% considered these events together. There was also considerable variation in the inclusion of "wind" (35%), "hail" (29%), "rain" (21%), "rainwater runoff" (9%), storm surge" (44%) and "cyclone" (32%) . Importantly, flood cover was considered as "Optional Cover" by 15% of Insurers. Grace, D and Platow M, Standardising general insurance definitions, March 2022

this approach to including or excluding 'flood' cover in the lead up to the 2022 floods. This meant that NRMA customers who elected to opt out of flood cover also lost cover for rainwater runoff and storm surge. Many policyholders were not aware of this until they came to make a claim.

Our casework arising out of the 2022 floods indicates that many customers with NRMA insurance would have been better off had they taken insurance out with any other insurer because despite opting out of flood, they would have likely been covered in part or in whole for rainwater runoff.

#### **Case study 27. Beryl's story- Financial Rights, C226717**

Beryl is an elderly widower in her 70s living in northern NSW. Beryl has insurance including cover for storm damage. She made a previous claim in 2009, when her insurer told her they would cover her for flood damage at that time but won't in the future. The insurer told her that her area had changed to a flood area and flood cover would cost extra. Beryl opted out of flood cover as it was more expensive.

In February 2022, her home was impacted by heavy storm and rainwater run-off which came into her home with timber flooring and furniture at 4am. Beryl's son helped her put in a claim with her Insurer. Beryl is staying with her son to minimise the loss.

The first time Beryl called, the insurer's customer service representative told her they would send someone out but no one came.

The second time Beryl called, another customer service representative told her that she wasn't covered for the claim as she doesn't have flood cover and water coming up from the ground is due to "flood" and they classify run-off under flood.

However, they paid \$1,100 ex gratia for temporary accommodation and food spoilage.

#### **Case study 28. Amelie's story - Financial Rights, S290959**

Around the end of 2018, NRMA made a change to their insurance policies to take out cover for rain-water run-off and storm surge under the insured event of "storm" to include this cover under "flood". This change was unique to NRMA policies only.

The ILS was contacted by Amelie, whose home was affected by rain-water run-off in March 2022. It wasn't in dispute that the damage was caused by rain-water run-off, however NRMA declined her claim as she had opted out of "flood" cover. She had her family assist in carrying out repairs to mitigate her loss.

NRMA asserted that they had sent a notice to Amelie in October 2018 which it relied upon as sufficient notice advising of the change. Following this Amelie attended an NRMA branch to remove the flood cover (due to significantly higher premiums) and an amended renewal notice was issued to Amelie in December 2018 excluding cover for flood, rainwater run off and storm surge. NRMA defended that sufficient notice had been given and the customer had chosen to opt out of the cover.

NRMA's approach appears to be inconsistent with the principle (if not the letter) of the standardised flood definition introduced by the Federal Government, and led to considerable harm to consumers impacted by the 2022 floods. This is also symptomatic of a broader problem of far too great a burden being placed on consumers to understand the differences between complex cover options (see below in relation to the deficiencies of the standard cover regime).

We are also concerned that other insurers may adopt this approach, given the problems accessing hydrology reports identified in the Deloitte Report. While this would remove the random unfairness of the current situation for NRMA customers, it would represent a significant reduction in cover for consumers generally, thereby increasing levels of underinsurance across the board for all insured events involving precipitation.

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## Recommendation

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**17. As a part of its announced review of natural hazard definitions, the Federal Government must re-examine the definition of flood, its impact on the market and the implications of the NRMA policy wording in undermining the intention of the standard definition.**

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### ***Definitions for maintenance, wear and tear, defect and pre-existing damage clauses***

One of the key issues consumers had in their claims handling experience, as outlined above, is that they were faced with claims denials based upon maintenance, wear and tear, defect and pre-existing damage exclusion clauses.

As noted above, the way insurers rely on these terms to exclude claims based on little evidence is a key problem. The fact that these terms were over-relied upon by insurers in the wake of the 2022 floods is also partly due to their inherent ambiguity and the variability of these terms.

Financial Rights examined these terms in 2021<sup>27</sup> and found that there were few attempts to define terms like “wear and tear” and “maintenance.” Although some parameters were mentioned (e.g., rot, rust, corrosion), an explicit definition was provided by only two Insurers. The research also found that there was almost no understanding amongst consumers about what obligations they have to maintain a house and what that means. Few products articulate what appropriate maintenance is required, and there was considerable variability in understanding what was required.

People know what maintenance means. What they don’t know is when insurers will invoke the concept to deny a claim. This is entirely subjective and in the hands of assessors and the insurers to decide.

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<sup>27</sup> Grace, D and Platow M, Standardising general insurance definitions, March 2022

### **Case study 29. Luella's story - Financial Rights, S286524**

Luella is having a dispute with her strata insurer. In October 2022 her home suffered damage after a heavy rainfall. The rain came in through the sides of the home and also mud came up from water logged drains near her home. Water also came in through the skylight on the roof. Luella's strata put in a claim and the insurer came out to do a make safe on the roof. The insurer then sent someone to assess the roof and the assessor later sent through a report opining that the roof was poorly maintained.

Luella disagrees that the roof has not been well maintained and she has made some enquiries with local roofers and builders. They have all told her they are happy to do repairs but they won't write a report. Luella is not sure what to do next. Her daughter is helping her put a complaint in writing to the insurer.

It is also important to understand that to undertake maintenance and thereby prevent wear and tear, involves an additional cost to consumers beyond the monetary fees paid for the insurance premium. This is not made clear to consumers and the lack of transparency is a result of the ambiguous definitions. "Maintenance" however defined involves consumers' time and effort, as well as financially through the provision of additional resources and/or personnel (e.g., hiring someone to clear roof gutters). Reasonable maintenance may also vary from person to person according to their physical capabilities and means.

Many defects to a property are also unknown to a consumer who may not have the expertise to recognise the issue. Building standards may change over time which can be relied upon to assert a defect clause and either deny a claim, partially deny a claim or place a pause on repairs.

### **Case study 30. Paul's story - Financial Rights, S291650**

Paul claimed on his home building insurance following the Victorian floods in October 2022.

A scope of works was agreed upon and the insurer sent a builder out to do the work. The builder ripped up floors, which were flood damaged, and then found that the joists were not up to building code. The builder refused to continue the floor work until the joists brought up to the building code.

Paul believes the insurer's PDS indicates that the insurance covers costs to meet building regulations in order to rebuilt or repair the part of the home that was damaged. He also does not understand how he was supposed identify and fix a problem that the insurer's assessors were unaware of until the floors were ripped out.

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## Recommendation

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18. We support in-principle the ICA's application to the ACCC to seek the ability to discuss the creation of a standard definition for "maintenance" and "wear and tear", however recommend that defect clauses and pre-existing damage, as related and similar terms be included in such a process.

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### **b. The existing standard cover regime does not work and leads to consumer harm**

*"I don't read the fine print; I probably never have. When you buy an insurance policy you look at the cost and base the decision as to whether you can afford to add onto it or not."<sup>28</sup>*

The standard cover regime for home and contents insurance sets out a baseline level of cover but insurers are not required to follow it, which undermines the whole purpose.

Insurers can deviate from the standard cover if they 'clearly informed the insured in writing' or 'the insured knew, or a reasonable person in the circumstances could be expected to have known, that the contract provided less than the standard cover or no cover'.<sup>29</sup>

What this means, in reality, is that consumers are merely provided with the product disclosure statement (**PDS**). The specific deviations are not required to be in any way highlighted and consumers are for all intents and purposes left in the dark as to whether their cover meets, falls below or exceeds minimum standards.

PDSs are complex and can run over 100 pages. CHOICE's research found that only 46% of people read the product disclosure statement for their policy and given the complexity of these documents, it is likely that even less people fully understand it. Monash University research found that when given the choice of a simplified bad, okay and good policy, up to 42% of people would choose the bad product.<sup>30</sup>

And the deviations are not insignificant nuances. They are all vital factors to understanding what product a consumer has purchased, what they are covered for, and how they will be dealt

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<sup>28</sup> Quote from a female, homeowner who was insured and experienced a flood in Rochester, Victoria. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

<sup>29</sup> *Insurance Contracts Act 1984*, ss. 35(2)

<sup>30</sup> Professor Justin Malbon, Professor Harmen Oppewal, [\(In\)effective Disclosure: An experimental study of consumers purchasing home contents insurance](#), September 2018



with when it comes time to claim. It leads to the random allocation of successful claims when disaster hits and financial ruin and other poor outcomes for consumers who wrongly believed they were covered: see **Beryl** and **Amelie's stories** above.

### Case study 31. Frank's story - Financial Rights, S283354

In September 2021 Frank put in a new driveway. Professional road construction workers came to install it. In February 2022 very heavy rains damaged the driveway. Frank made a claim on his insurance but his claim was denied because his policy had an exclusion for driveways which were "loose or compacted surfaces".

When Frank raised a dispute his insurer explained the claim denial by saying "although it's sealed it's also compacted." The policy defines "loose or compacted surfaces" as earth pebbles, topsoil or bark. Frank says the driveway was constructed from cement and tar. Frank will have to go to AFCA to continue his dispute.

An improved standard cover regime will give consumers more protection and ensure they have access to a clearly defined, appropriate level of minimum cover. We welcome the Federal Government's commitment to review the standard cover regime as a part of its announced examination of natural hazard definitions.

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## Recommendations

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**19. A genuine standard cover regime should be introduced that includes the following characteristics:**

- a) a minimum set of basic default standards that meet community expectations below which insurers cannot fall;
  - b) a set of standard definitions for every inclusion, exclusion and commonly used term related to natural hazards;
  - c) a limited number of clearly defined levels of cover above basic, default standard cover which insurers can compete on, for example: basic default cover, premium cover and deluxe cover;
  - d) an ability to cover specific risks in addition to that included in basic, premium or deluxe standards to ensure unique individual risks are insurable, if not available under standard cover.
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### **c. Pricing and risk mitigation impacts are opaque**

Opaque pricing of insurance premiums makes it hard for consumers to understand how an insurer has assessed the risk of natural hazards impacting their property and how this affects the price of their insurance, as expressed as the premium.

Insurance consumers are currently told very little, if anything at all, about the specific risks that they are insuring against and how much that specific coverage costs. While there may be some risk mapping services available,<sup>31</sup> the extent to which these tools are currently used by consumers is unclear.

It is clear though, that insurance companies are not currently required to make this information available to consumers even when it applies directly to their premium price. It is also not clear how accurate and independent these services are, and how results can be contested if the rating doesn't consider individual mitigation and resilience factors.

Even if they are used, consumers are left in the dark with respect to how those risks identified impact upon the actual premium price they are charged. They are also largely not made aware of what actions they should or could take to lower these risks.

The Productivity Commission identified two forms of information asymmetry that impact upon a consumer's ability to make efficient and appropriate choices to their insurance.<sup>32</sup> These were where:

- consumers have access to relevant information, but it is not in a usable format (e.g. it is too complex) or;
- consumers cannot access the information they need (e.g. insurers not providing information).

The former arguably applies to the provision of the risk mapping services that are currently in the marketplace, PDSs and other material provided by insurers.

The latter however relates directly to the need for pricing information that correlates to risk.

In late October 2023 Insurance News reported on research from UNSW that:

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<sup>31</sup> For example the recently launched Bushfire Resilience Rating app developed by the Resilient Building Council and funded by the National Emergency Management Agency Resilient Building Council, 23 October 2023 "[Free Bushfire Resilience Rating App to Help Protect Homes](#)" The Insurance Council of Australia has also been working on a Multi-Hazard Resilience Ratings Program: [Building Resilience Rating Tool \(BRRT\)](#)

<sup>32</sup> Productivity Commission, [Natural Disaster Funding Arrangements—Inquiry Report, Vol. 2](#), December 2014, p. 434

*"building code revisions in response to the Black Summer bushfires mean homes may need to be rebuilt to higher standards if they are burned down, and people should be aware that higher premiums may be required to cover increased costs."<sup>33</sup>*

While the insurance sector may be keeping up with building code changes, flood mapping and BAL rating revisions, there is no simple, plain-English sharing of this information with customers, nor any explicit information about how this impacts upon pricing.

If society is to benefit from the mitigation of controllable risks, there needs to be a genuine risk mitigation partnership between insurers and insureds. Consumers must know what the risks are to be able to act on them, and should be provided with appropriately transparent pricing signals – that indicate the existence of risks with price increases and the mitigation of risks with price decreases.

### **Component pricing**

Component pricing is one way for a consumer to identify risks that can be controlled and mitigated, and can encourage consumers to act accordingly.

When an insurer provides a quote for a new or renewing insurance policy, this should include a breakdown of the components of the premium, including:

- controllable risks
- non-controllable risks
- statutory charges

For the non-controllable risks, this should be broken down further to each type of natural hazard affecting the risk of the insured property.

Component pricing is possible. Andrew Hall of the Insurance Council of Australia presented a state by state breakdown of premium prices at the Insurance Brokers Conference in October 2023 including natural hazards, administration and taxes.

Component pricing would provide the much needed, clear price signal, about the risks people face and would enable them to make more informed decisions around mitigation.

Component pricing will:

- remove significant information asymmetries between insured and insurer;
- provide consumers with increased understanding about what effect mitigation strategies may have on reducing insurance premiums or what behaviours or conditions might increase premiums;
- alert consumers to changes in the insurer's perception of their risk;

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<sup>33</sup> Insurance News, [UNSW warns on risks from inadequate bushfire cover](#), 23 October 2023

- increase the possibility for a genuine risk mitigation partnership between the insured and the insurer;
- benefit society as a whole from increased risk mitigation and decreased risk taking; and
- allow consumers opportunities to correct errors or misperceptions.

The price signal would be particularly helpful in parts of Australia that face natural hazards and severe weather risks. Knowing that a large portion of your premium is made up of the cost of a fire, flood or storm risk is critical information to a homeowner or prospective homeowner.

The way in which component pricing is communicated to policyholders should be consumer tested to ensure that it is presented clearly and effectively to consumers.

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## Recommendations

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### 20. Insurers should be required to:

- a) **identify the components of an insurance premium that are based on natural hazard risks for new and renewing home and contents policies;**
- b) **provide full explanations of any premium increases that relate to risk;**
- c) **share all known natural hazard risks impacting a property with the policyholder in a plain English format.**
- d) **reflect any risk mitigation measures in the premium and explain this to the policyholder.**

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### d. Policyholders are unaware that they are underinsured

*"I haven't counted the cost, when I think about [the damage to] aircon, electricity, water meter that I had not considered I'm probably underinsured - I have not got the energy, [I am] busy trying to keep my job."<sup>34</sup>*

There are a number of reasons why homeowners might find themselves underinsured after an extreme weather event. For instance, building codes often change after a flood or bushfire to require greater resilience for the future, but those changes can dramatically increase the cost of rebuilding. Rebuilding costs in general always go up after a major disaster because many

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<sup>34</sup> Quote from a female, homeowner who was insured and experienced a flood in the Hawkesbury river region of NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

properties are being repaired at the same time, putting increased demand on labour and building materials. These increased costs are predictable however, insurers can do more to communicate them to their customers, or build in buffer/safety-net provisions into their policies.

Insurer communication with customers can be improved at every stage in the insurance contract, including when policies are purchased and renewed.

Rebuilding a home after it has sustained significant flood damage is more expensive than most people realise. In addition to the construction costs, there are costs of clearing the site (potentially including hazardous material), temporary accommodation, professional engineering and architectural services. In some cases, people need to rebuild to higher building standards than those that applied to their previous home. As we saw in 2022, construction costs can also quickly escalate due to shortages if a large number of homes are affected by flood at the same time in the same geographic region.

It is not unusual for people to find themselves underinsured after an event that destroys their home. This means that they are then responsible for the gap between the cost of repairing the damage and the payout they can expect from their insurer.

CHOICE's research shows that 78% of people say they are confident that their home insurance covers the cost of rebuilding their home. Yet, 32% of people who have settled an insurance claim for a bushfire, said that their home insurance was not enough to cover the costs.<sup>35</sup> This exposes the significant gap between the estimated and real cost of rebuilding after a disaster.

Similarly, research done by Financial Rights of its extreme-weather related legal advice services in 2021 found that underinsurance was the most common issue raised by proportion for people affected by bushfires. It was the fourth most commonly raised issue overall across all types of extreme weather events.<sup>36</sup>

There are also product design issues with insurance contracts that lead to people being underinsured. The way retail insurance products work in Australia puts almost the entire responsibility for setting one's sum insured on the consumer. Sum insured calculators do not necessarily incorporate the most up to date information about inflation or a property's

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<sup>35</sup> CHOICE Impact of Climate Crisis on Insurance research is based on a survey of 1,037 Australians that have home and contents insurance. Quotas were applied for representations in each age group as well as genders and location to ensure coverage in each state and territory across metropolitan and regional areas. Fieldwork was conducted from the 15th to the 30th of June, 2023. The survey was designed and analysed by CHOICE with fieldwork provided by The ORU. The ORU are ISO 20252 and 26362 accredited and are full AMSRO members.

<sup>36</sup> Financial Rights Legal Centre, 2022, [Exposed: Insurance problems after extreme weather events](#),

building code requirements. There is also a lack of incentive for consumers to update their sum insured at renewal time, especially if they are facing affordability constraints.

Consumers tend to let their insurance product roll over year to year without updating the sum insured amount, leaving them at risk of being underinsured when the level of risk to their property increases over time. CHOICE's research found that 85% of people have not switched insurance companies in the past three years. Some people therefore may not have an accurate sum insured, which reflects increased building and labour costs.

### **Case study 32. Kelly's story - Financial Rights, S296623**

Kelly has farm insurance for her 100-acre property in northern NSW. The farm was damaged in a storm in February 2022, and she made a claim the same month.

The farm was sum insured around 5-6 years earlier for \$623,000. Kelly can't remember who calculated that specific amount and why, but says it was not her, as she is not a builder and couldn't make an estimate like that.

The total bill for repairs is \$840,000 – over \$200,000 more than she was insured for. Kelly's insurer is offering to only pay out the sum insured amount of \$623,000.

Insurers can and should be doing more to help consumers keep their sum insured amount up to date. 45% of those with home insurance had not updated their policy for more than 12 months.<sup>37</sup> Companies should be required to proactively warn consumers if they think they are potentially underinsured. This warning should be built into the purchase journey.

Insurers should also send a warning on renewal notices and include records of the annual sum insured calculations insurers have done which resulted in the underinsurance warning. This was a key recommendation of the ACCC's Northern Australia inquiry, which has yet to be adopted.<sup>38</sup>

We are not recommending that insurers provide tailored financial advice to their customers, only that they ensure their own sum insured calculators are up to date with the latest climate peril, inflation and building code data, and that each year insurers compare the sum insured set for the property with their own total rebuild cost calculations. If a customer is underinsured, a (consumer-tested) warning should appear on the renewal notice telling the consumer to

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<sup>37</sup> Ibid

<sup>38</sup> Australian Competition and Consumer Commission, 2020, [Northern Australia Insurance Inquiry – Final Report](#), Canberra

review their sum insured. This should also be supplemented with other methods of communication to ensure the customer's is alerted to the problem.

Insurance companies need to be doing more to assist consumers in this complex process. There needs to be a shift in responsibility from individuals to insurers to ensure that the sum insured remains up to date. The auto-renewal process for home insurance doesn't incentivise consumer engagement. We recognise this solution will not do much good for customers who simply cannot afford adequate insurance coverage, but it will help prevent customers who can afford to top up their cover from being accidentally underinsured.

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## Recommendation

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**21. Insurers should be required to proactively warn consumers when they suspect policyholders are likely underinsured. This should be done in a meaningful way that encourages consumers to actively respond by confirming they have reviewed their sum insured amount.**

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### 3. Affordability of insurance

#### ***Term of reference 2(g) Affordability of insurance coverage to policyholder***

Insurance unaffordability is widespread across the community. People were struggling to afford their increasingly high insurance premiums before the floods of 2022 and the problem has only escalated since. By its very nature this issue disproportionately impacts people on lower incomes who tend to occupy a greater proportion of housing in more disaster-prone areas.

The Actuaries Institute conducted research on home insurance affordability and found that insurance premiums have increased by 50% in high risk parts of Australia. Nearly one in eight Australian households (1.24 million) are now classified as affordability stressed, spending more than four weeks of their annual income on home insurance.<sup>39</sup> North Queensland and the flood-prone Northern Rivers region of NSW are among the hardest hit areas when it comes to affordability-stressed households, more than half of the cost of their home insurance premiums are due to the risk associated with floods.<sup>40</sup>

#### **Case study 33. Jane's story– CHOICE**

CHOICE spoke with Jane, a single mother living in Northern NSW, with her two teenage kids and aged parent. In recent years, she has been affected by the 2017 and 2022 floods, the 2019-2020 Black Summer bushfires, droughts and the COVID 19 pandemic. She shared:

"I'm a single mother on a single mother's pension, I am at risk of homelessness, I knew I was buying in a flood plain but did not want to risk being in the rental market".

Jane did not have flood insurance when her home was flooded by just under a metre of water in 2022. She has home and contents insurance, but opted out of flood cover because of the cost:

"It came down to affordability, I had no choice, I can't afford flood insurance. I did look into it, but it was prohibitive, maybe \$4,000 plus, I can't afford it".

Despite many public inquiries investigating the nature and preparedness of communities to respond to natural disasters, there is still no clear data about the nature and scale of non-insurance and underinsurance due to unaffordable premiums. Many households in recently

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<sup>39</sup> Actuaries Institute, 2023, [Home Insurance Affordability Update](#)

<sup>40</sup> Ibid

flood-struck regions were uninsured and have relied on post-disaster government assistance to survive and recover. The consequences of non-insurance make recovery from a major natural disaster extremely difficult.

The South Australian Council of Social Services reported in 2022 that approximately 6% to 10% of low-income home owning households do not have home insurance.<sup>41</sup> Approximately 50% to 67% of people on a low income do not have contents insurance. SACOSS describes the following risk factors 'creating a perfect storm' around uninsurance:

- Insurance premiums have been rising and will continue to rise with increased natural disasters.
- Financial strain on households has increased during the COVID-19 pandemic, with the risk that these households may let their insurance premium payments lapse, leaving them uninsured.
- People on low incomes are more likely to live in areas with higher risk of natural disasters because the housing tends to be cheaper.
- People on low incomes are unlikely to have the resources or power to engage in much mitigation (because they're renting, and/or because of the cost).

A Climate Council national survey found that 1 in 20 people had cancelled their insurance coverage due to an increase in their home and contents premium and 1 in 9 had reduced their overall coverage. A further 1 in 20 people had been told by their insurance provider that they could not be insured and a third of people that did have insurance said they were struggling to afford paying their premiums. The Climate Council found that nearly two thirds of people reported that their premiums had increased in the last two years.<sup>42</sup>

#### **Case study 34. Louise's story– CHOICE**

CHOICE spoke with a mother and son living in the Hawkesbury river region of NSW, their house is located on a floodplain. They were aware that there was some risk of flood when they purchased the brick and timber house, but didn't know how bad it could get.

Louise said:

"We didn't think the risk was that high and we couldn't afford to live anywhere else".

They had been in the house for 9 years and had lived through three separate floods, in March 2021, March 2022 and July 2022. Louise indicated that they bought the house on the understanding that there was a one in a 100 year flood risk, which she took to mean

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<sup>41</sup> South Australian Council of Social Service, 2022, [Protecting the Basics: Insurance access for people on low incomes at risk from climate emergencies](#)

<sup>42</sup> Climate Council, 2022, [Uninsurable Nation: Australia's most climate-vulnerable places](#)

every 100 years she could be flooded versus there being a 1% chance every year of being flooded. The increase in floods has caused a jump in her premium price:

“My insurance, including flood cover, cost me \$9,000 this year. I used some of my last payout to pay for it, but I’m not sure if I can afford it next year”.

Like many others, their property's value has reduced significantly, leaving them trapped in an unsellable home.

The ACCC estimated that 89% of insurable properties have home insurance. The rate of insurance can, however, vary significantly by location. For example, the ACCC found that just 60% of insurable properties were insured in North Western Australia. Lower uptake of home insurance is associated with regions with a lower socio-economic profile and/or higher exposure to extreme weather.<sup>43</sup>

The ACCC’s analysis of data from insurers also found that as premiums rose, for example in Port Hedland, the average sum insured declined as people sought to manage their premiums. This can help to explain the persistence of underinsurance in disaster-prone areas.

#### **Case study 35. Trang’s story- Financial Rights, S297229**

Trang lives in a land lease community in Queensland, and experienced flooding in 2011 and 2022. In the 2022 flood, water went underneath his house and he made a claim on his policy.

When it was time to renew the policy, the insurer advised Trang they were no longer insuring properties where flood claims had been made.

Trang approached other insurers for quotes but the premiums quoted were extremely high compared to what he was paying before, and were unaffordable for him. Trang says a neighbour got insurance from an alternate insurer at a much lower price. The insurer agreed to review their quote, but declined to change the price.

Trang is concerned about not being insured, as this is one of the requirements of owning a property in the land lease community.

Trang can seek reasons for their decision in writing to understand if the refusal to continue to provide insurance could be challenged, but there are limited jurisdictional grounds at AFCA to dispute premium decisions.

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<sup>43</sup> Australian Competition and Consumer Commission, 2020, [Northern Australia Insurance Inquiry – Final Report](#) Canberra

Policy solutions are required to assist people with unaffordable insurance premiums. We encourage the committee to make recommendations that can directly address the unaffordability of insurance such as:

- a. targeted subsidies;
- b. further microfinance insurance products; and
- c. an inquiry into affordability with a broader terms of reference.

We also note that our recommendations about reflecting property level mitigation measures in premiums (and subsidising property level mitigation) may, if properly implemented, also help with affordability (see recommendations 27 – 29).

### **a. Targeted direct subsidies are needed to assist people with unaffordable insurance**

When the ACCC examined a range of policy measures to address affordability of insurance in areas of northern Australia affected by cyclones, it identified subsidies as the most economically effective measure.<sup>44</sup> The ACCC found that:

*“Direct subsidies have the greatest potential to work in a targeted way to relieve some of the acute affordability and cost of living pressures facing consumers in higher risk areas, at a lower cost and more effectively than other measures.”<sup>45</sup>*

Given the growing number of properties affected by other natural hazards, it is time for the Federal Government to consider targeted, direct subsidies for some people for whom insurance is unaffordable, to assist with the transition to a lower risk environment while mitigation and adaptation works are undertaken. We acknowledge there are concerns about interventions in the insurance market that are seen as masking risk or pretending it does not exist. We believe subsidies can be designed in a way to avoid any confusion that a property is facing great risk. Mitigation projects and relocation strategies should progress as quickly as possible, but those strategies take time. In the intervening years, subsidies can help lower income Australians share the risk to their homes instead of bearing the entire risk alone.

The use of subsidies could be piloted in communities where insurance is affordable for most but not for people on low incomes. Subsidies should be carefully targeted, with eligibility based on the level of premium and the person’s income. Warnings should be very clear on renewal notices that subsidies are time-limited and will phase out after other mitigation and relocation strategies have been completed.

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<sup>44</sup>Australian Competition and Consumer Commission, 2020, [Northern Australia Insurance Inquiry – Final Report](#).

<sup>45</sup> Page vii, ACCC (2020)

While subsidies can help to make insurance more affordable, and can help with a lengthy transition to a lower risk environment, they must be balanced with an obligation not to put people in harm's way. Poorly-designed subsidies risk sending the wrong signal to communities living in areas with a high risk of natural hazards about the level of risk they face.

There may also be other barriers to access that can't be fully addressed by subsidies. In an interview with CHOICE, Good Shepherd shared that:

*"Subsidies will work for a cohort but not everyone...If people are excluded from the insurance market right now, we can't assume that they will be ready, willing and able to re-enter that market."*

Direct subsidies need to be carefully designed and targeted appropriately. The ACCC should be funded to monitor the implementation of a pilot of direct subsidies to ensure that insurers do not absorb subsidies and that subsidies do not significantly distort market outcomes. Subsidies should be carefully designed to complement mitigation programs, rather than undermine them. A well-designed pilot would help policymakers to determine whether direct subsidies should be rolled out more broadly.

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## Recommendation

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**22. Subsidise insurance for people who can't afford it. The Federal Government should trial subsidies for insurance for people who can't afford it, particularly for people on low incomes.**

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### **b. Microfinance insurance products needs to be further explored**

People are caught in a disaster-induced poverty cycle because they did not have insurance, or they did not have enough insurance, and so they can not afford to rebuild their home or are pushed back into the private rental market.

Insurance products need to meet people's needs, including the needs of people on low incomes. Micro-insurance, which provides insurance products at an affordable rate specifically to households on low incomes, could be a partial solution to the problem of access to insurance for people on low incomes. The South Australian Government has funded Good Shepherd and the Brotherhood of St Laurence to investigate the feasibility of a government funded, not-for-profit, micro-finance home insurance product.

An effective and well-designed microfinance product could help people on lower-incomes have a stronger safety net during natural disaster events. Governments should continue to fund trials for microfinance insurance products in order to test the degree to which these

products can address some of the problems with access to insurance for people on low incomes.

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## Recommendation

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### 23. Federal and state governments should expand funding for trials of microfinance insurance products to provide protection for people on lower incomes

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#### c. An inquiry into insurance affordability for lower-income households

This inquiry into the floods of 2022 across the East Coast of Australia is a good first step. However, we support the initiation of an inquiry with a broader terms of reference. The Federal Government should conduct an independent inquiry into insurance needs and insurance affordability across the country in areas affected by a range of extreme weather events.

We recognise that there have been a number of recent existing inquiries on the insurance market, however there has not been an inquiry which is focused on insurance affordability nationally. There is a lack of data about the rates of insurance unaffordability in different parts of Australia.

The inquiry should consider:

- the current levels of non-insurance and underinsurance in home and contents insurance;
- the impact of non-insurance and underinsurance in the aftermath of a disaster;
- the effectiveness of recent federal and state government measures designed to improve insurance affordability in disaster prone regions;
- whether other measures, such as widespread subsidies or an expanded government reinsurance pool, for example to flood risk, is necessary to improve insurance affordability; and
- options to increase home and contents insurance affordability in disaster prone areas, without losing sight of the need for mitigation or relocation where appropriate.

We note the recent review by Deloitte into the insurance industry's response to the 2022 floods specifically did not extend to availability and affordability of insurance.<sup>46</sup> This was a missed opportunity to use insurer's claims data to investigate levels of underinsurance in high flood

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<sup>46</sup> Deloitte, *The new benchmark for catastrophe preparedness in Australia. A review of the insurance industry's response to the 2022 floods in South East Queensland and New South Wales (CAT 221)*, October 2023.

peril areas. Claims decisions to cash settle are often a result of underinsurance (because the estimated cost of repairs exceeds the sum insured). Insurers should be tracking reasons for cash settlements and levels of related underinsurance to feed into broader policy and government decision-making around insurance availability and affordability. Similarly, insurers should be tracking how often rebuilds are not like-for-like because the sum insured is not high enough for a total replacement of the consumer's home; and how often declines are based on the lack of flood cover following a decision by the policyholder to opt out for affordability reasons.

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## Recommendation

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**24. The Federal Government should conduct an independent review of the current and future affordability of home insurance, particularly for households on lower incomes in extreme weather prone areas.**

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## 4. Internal dispute resolution

### ***Term of Reference 2(h) Claimants' and insurers' experiences of internal dispute resolution processes***

Consumer advocates that work with insurance disputes regularly advise clients to raise their complaints with their insurer's Internal Dispute Resolution (**IDR**) team. IDR is an important first step in the complaints process where the insurer has a chance to resolve a complaint before it proceeds to AFCA.

The General Insurance Code Governance Committee as a part of its thematic inquiry into claims handling<sup>47</sup> found that data provided by the six insurers that participated in the inquiry showed that in 2021-22, a quarter of denied home claims were escalated to IDR.

*"This worked out to be nearly 11,000 complaints. And, alarmingly, nearly half of these were later overturned in favour of the consumer. This is a significant overturn rate and raises questions about the quality of the decision-making by subscribers."*<sup>48</sup>

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<sup>47</sup> General Insurance Code Governance Committee, Making better claims decisions A thematic inquiry July 2023

<sup>48</sup> Ibid. Chair's Message, pg 3.

While it is a good sign that IDR is working to genuinely review claims decisions, it is also concerning that so many claims decisions are being overturned at the IDR stage. Half of the maintenance and wear and tear claims decisions examined by the CGC were overturned after the subscriber reassessed the information it already held.

In that inquiry, claims were generally overturned because after reviewing the file the IDR specialist decided that the damage subject to the insurance claim was caused by an event, such as a storm, and would likely have occurred without any wear and tear or maintenance issues or that it was unlikely that the consumer would have been aware of the wear and tear or maintenance issues.

There is also a further subset of IDR decisions that get overturned at AFCA. Financial Rights has represented many consumers whose claim was originally denied and going through IDR did not resolve the dispute. Only after lodging a complaint in AFCA did we have any success negotiating with or getting copies of expert reports from the insurer.

In 2020 ASIC released its updated Regulatory Guide 271 relating to Internal Dispute Resolution. Since October 2021, insurers have been required to record all complaints received and have an effective system for recording information about complaints. Timeframes for resolving complaints were also reduced from 45 days to 30 days, and insurers must submit breach reports to ASIC. These reforms to the IDR regime should have been embedded into insurance practice long before the 2022 flood events, but unfortunately consumer advocates have seen examples of consumer IDR experiences which are not meeting the new standards.

In February 2023, AFCA reported a 65% increase in general insurance complaints (external dispute resolution) in the 2022–23 financial year compared with the same year, with 40% of complaints involving CAT221 resolved at the earliest stage of AFCA’s process, indicating that insurers could do more to resolve claims through their IDR processes.<sup>49</sup>

### **Case study 36. Raquel’s story - Financial Rights, S294060**

Raquel contacted us in January 2023 about an ongoing dispute with her insurer about damage to her driveway resulting from a creek on her property flooding in February 2022.

Raquel made an IDR complaint due to delays in addressing her claim, which the insurer acknowledged. The insurer did not come and assess her driveway until almost 9 months after the flood.

In IDR the insurer partially denied the claim due to an erosion exclusion. The insurer claimed the property had poor drainage, but did acknowledge a number of drains on the property. Raquel pushed back and the insurer eventually told her she could get own

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<sup>49</sup> See page 32 ASIC [Report 768 Navigating the storm: ASIC’s review of home insurance claims](#),



report and the insurer would reimburse her for it if their own report was contradictory, which was indeed the case. The insurer and Raquel both sought quotes to repair the driveway. The insurer's repairer verbally quoted \$200,000 less than Raquel's quote.

Raquel says the claim seems to keep being passed to different team members and departments at her insurer. She was told by a case manager that it was expected the full amount would be approved based on Raquel's engineer's report. Instead, the insurer offered \$90,000 to fix only a portion of the driveway (an amount that doesn't include uplift). The insurer accepts that Raquel is covered and has a sealed 1250sqm driveway but have told her their policy only covers 300sqm. They have not been able to show her where this in the policy this is stated.

Raquel is considering whether to make a new IDR complaint, lodge a complaint in AFCA, or accept the amount offered.

#### **Case study 37. Stewart's story - Financial Rights, S284202**

Stewart is in his mid-70's. He contacted us in October 2022 after his home had been damaged in floods.

His insurer had denied his claim due to poor/defective design. Stewart then raised an IDR complaint and the insurer offered Stewart a goodwill payment, which covers the cost of repair as quoted by the builder. However the IDR team says the claim is still officially denied and Stewart is concerned it will be on his claims history. It makes him feel like a criminal. He was given 14 days to decide whether to accept.

#### **Case study 38. Maxine's story - Financial Rights, C231468**

Maxine first contacted the ILS in September 2022, after her home was damaged by storm and flood. Her insurer had accepted her claim and signed off on repairs. Maxine and her 3 children were moved to temporary accommodation, because the builder deemed the house unsafe due to mould.

There have been ongoing disputes with the scope of works. The insurer's builder told Maxine that certain areas of the house need major work - including the kitchen - but this replacement was not in the scope of works. The builder also said that they will not do some of the work on the scope of works, even though this was signed off on by the

insurer. Maxine was also concerned that the builder kept trying to add maintenance work for her to undertake and felt this was unreasonable. Maxine says because the repairs were left uncompleted, the house and remaining fixtures suffered further damage.

Maxine has also been struggling with her temporary accommodation. Her insurer is making her apply for it in blocks of 4 weeks. Maxine has anxiety and 3 children with autism, and the long delays and ongoing uncertainty are very difficult for them to cope with. She had disclosed information about her vulnerability to the insurer.

Maxine feels the communication from her insurer has been poor and limited. She has contents insurance with the same insurer and feels the two teams don't communicate with each other. There has been a delay in them assessing her contents claim.

Maxine made an IDR complaint but felt the insurer didn't really address her concerns. The stress on Maxine was clear each time she contacted us. She was often upset when she contacted us and told us she was feeling overwhelmed and not sleeping well. She told us she has developed PTSD from the stress of the situation with her insurer. The IDR team did nothing to lessen her apprehensions.

After eight months and with no rectification underway, Maxine lodged a complaint at AFCA. She was allocated a case manager and her complaint is being fast tracked. 12 months after the initial event her AFCA dispute is on hold awaiting a final scope of works.

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## Recommendations

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- 25. Insurers should adequately resource IDR and better train IDR staff, including to critically analyse expert reports and investigate the circumstances of a claim.**
  - 26. Insurers should continually analyse claims handling metrics and complaints to more effectively respond to emerging systemic problems and pro-actively manage complex or drawn-out claims.**
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## 5. Land use planning and disaster mitigation efforts

### **Term of reference 2(i) The impact of land use planning decisions and disaster mitigation efforts on the availability and affordability of insurance**

*I had been living in South Lismore already. We could only afford to buy here and it was where our child was at school and the other parent was at work. They are putting lower socio-economic people at risk, I bought the house for \$170k in 2016 – it was all I could afford. Until you actually go through a flood you don't know how bad it is. I went in with a bit of ignorance, you can't understand it until it happens. Now I can't get another loan, even if I sell to stay in the community, a lot of people are in the same position. There are few options for me.”<sup>50</sup>*

Land-use planning decisions and building codes influence the exposure and vulnerability of structures and communities to natural hazards. There is broad consensus that better land use planning can be used to mitigate risk and improve resilience. We presume there will be many experts in land use planning for disaster resilient communities who will submit to this inquiry. The following comments reflect our experience of working with policyholders to assist them with finding out about risk, working with them to mitigate against their risks, and providing information and what they can do when the risk to their property is too extreme to be reduced.

This experience has led us to call for the following:

- a. accurate and consistent risk information be made available to consumers;
- b. premiums should be lowered in line with risk mitigation and reduction;
- c. rental properties must be made resilient to extreme weather events;
- d. lower income homes should be supported to make their homes more resilient;
- e. people in exposed housing need support; and
- f. governments need to provide funding for community-led conversations.

#### **a. Accurate and consistent risk information from a single reliable source needs to be made available to consumers**

Australians have to rely on piecemeal and inaccurate information about their property's level of risk. The ASIC Money Smart website encourages consumers to find out if their home is in a

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<sup>50</sup> Quote from a mother, homeowner, who was uninsured and experienced a flood in the South Lismore, NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

natural disaster-prone area by contacting their insurance company, local council and state or territory emergency services organisation.

It is unclear what information an insurer can or will provide to their customers. The Insurance Council of Australia's Understanding Insurance website directs consumers to their local government to obtain property level information about flood risk. The Insurance Council of Australia states that governments are responsible for assessing and mapping the flood risk to communities. It notes that:

*"Unfortunately, many parts of Australia that have flood risks lack adequate flood data or have outdated flood maps. Most jurisdictions are working hard to improve the accuracy and availability of their flood information."<sup>51</sup>*

Different jurisdictions have developed various consumer-facing tools to assist communities to understand general flood, bushfire, cyclone and storm risks. In Queensland, people can access free property-level Coastal Hazard Maps which show areas vulnerable to coastal erosion or permanent tidal inundation, as well as the projected climate change impact to 2100. The NSW Rural Fire Service has an online tool to check if a property is in a bushfire prone area. CoastAdapt is an online tool that maps the impacts of sea-level rise for coastal LGAs. Emergency services organisations will typically refer people to local government for property level flood risk information.

There are some private Australian providers of climate risk information at a property level, such as Climate Valuation which currently provides a Comprehensive Climate Impact Report for \$45. The Climate Council's Climate Risk Map is an interactive map of climate vulnerable places in Australia at the postcode level.

While some of these sources of information are useful in some circumstances, the inconsistent and fragmented way in which they are produced means that it is very hard for most people to find the information they need.

People need better access to information about the current and future exposure of their home to risk of extreme weather events but this information is currently difficult to find. The quality of information available for different types of risks can also vary significantly, with information on flood risk being particularly difficult to understand. This is typically published by local government bodies to inform planning decisions but it has not been developed with consumers in mind.

In the past, identifying a property's risk to an insurable natural hazard may have been an infrequent activity. However, the impact of climate change means that extreme weather risks to many properties have increased in recent years and will continue to change. Consumers

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<sup>51</sup> Insurance Council of Australia, 2023, [Understanding Insurance - Flood insurance](#)

need to understand the consequences of this dynamic environment, including how it can affect their home insurance premiums.

Access to timely information about evolving risk exposure can also inform the mitigation measures people may undertake to lower their risk exposure. Improved climate risk modelling is also important to understanding a property's long-term risk profile when deciding whether to purchase a home.

Lenders require home buyers to insure their homes over the lifetime of a mortgage, and most people would expect to be able to obtain insurance throughout the life of the home loan. Under responsible lending obligations, lenders must not enter into a credit contract with a consumer if the credit contract is unsuitable for the consumer and the cost of home insurance is typically considered when assessing suitability. Better information about natural hazard risks and future modelling of risks could be used by lenders to more accurately estimate insurance premiums for the term of the loan as part of their responsible lending obligations.

*"We didn't think the (flood) risk was that high... we could not afford to live anywhere else"<sup>52</sup>*

Governments need to coordinate to develop a National Hazard Risk Database that provides easily understood, open access information about current and future climate risks to individual properties.

The general insurance industry has already partnered with governments to develop the National Flood Information Database for use by insurers in determining the flood risk to individual properties. The database contains 11.3 million addresses and is based on local council mapping but it is not currently a public database.

As a starting point, the National Flood Information Database should be made publicly available. People should be able to easily look up their address and access information regarding the current and future risk to their homes, enabling them to make empowered decisions. The National Flood Information Database should also be regularly updated and could eventually be included in a broader, National Hazard Risk Database with data on the risk of cyclone, bushfire and coastal erosion.

Many recent reports and inquiries, including the Royal Commission, NSW Flood Inquiry and the Actuaries Institute, have called for publicly available climate risk modelling of natural hazards at the property level. They have noted the significance of this information for informed decision making about property transactions and mitigation investments. The Productivity

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<sup>52</sup> Quote from a mother, homeowner, who was insured and experienced a flood on the Hawkesbury River, NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023.

Commission in 2014 found that many customers underestimate, or are skeptical about, the risks they are exposed to.<sup>53</sup> Almost a decade later, the NSW Flood Inquiry delivered a finding that:

*“Most landholders seem to have little idea if their property is at risk of disaster or has ever been affected previously by disaster.”*

The property-level information contained in a National Hazard Risk Database could be used to enhance public awareness of natural hazard risks by:

- disclosing property-level natural hazard risks when properties are advertised for sale or rental
- informing insurance decisions about property-level exposure to natural weather events, particularly flood
- informing mortgage lenders’ assessments of likely insurance costs over the life of a mortgage as part of their responsible lending obligations
- communicating to insurance customers and people who rent about changes in natural hazard risks to their home over time

Policymakers also need to test the best ways of providing and explaining this information to consumers. The Royal Commission into National Natural Disaster Arrangements recommended that governments should develop ways in which natural hazard risk information can be better communicated to the public — particularly to people who are making decisions that will affect their exposure to those risks. For example, those selling a home might be required to disclose this type of information to prospective purchasers.<sup>54</sup>

We recognise that many of the above strategies will render property in high risk areas worthless (or nearly worthless). This means that the brunt of the damage resulting from historic poor planning and climate inaction will fall very inequitably on a relatively small sub-section of property owners, in lower socio-economic areas who are likely to have no other assets. For these families the results will be devastating. For this reason, it is imperative that a systemic, risk data driven, equitable program for buybacks and relocation be rolled out as soon as possible. This is covered further below.

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<sup>53</sup> Royal Commission into National Natural Disaster Arrangements, 2020, *Report*, Canberra; NSW Floods Inquiry, 2022, *Volume Two: Full report*, Sydney; Actuaries Institute, 2022, *Home insurance affordability and socioeconomic equity in a changing climate*, Green Paper; Productivity Commission, 2014, *Natural Disaster Funding Arrangements*, Inquiry Report no. 74, Canberra.

<sup>54</sup> Royal Commission into National Natural Disaster Arrangements, 2020, *Report*, p.32, Canberra

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## Recommendation

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27. Governments should work together to develop a Hazard Risk Database that provides easily understood, publicly available information on current and future climate risks to individual properties. This Database should include data on the risk of floods, cyclones, bushfires and coastal erosion.

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### **b. Premiums should be lowered in line with risk mitigation and reduction**

In his recent address to the Insurance Council of Australia Conference the Minister for Financial Services Stephen Jones MP made it clear that insurers need to reflect reduced risk in insurance premiums when people undertake mitigation on their own properties:

*"It's clear that we need to do a better job of ensuring that both public and private mitigation efforts are being recognised, both by insurers here at home, and reinsurers around the world. If we do the work, it needs to be recognised and it needs to be rewarded."<sup>55</sup>*

Reducing risk, where possible, is a vital response to living with more frequent and intense extreme weather. Consumers need the resources and information to help them understand what mitigation measures they can implement to lower their risk profile. Many consumers are already taking steps to reduce their risk, but few report seeing a change in their premium. Price signals need to work both ways. If households commit to meaningful mitigation, they should be rewarded. Discounted premiums need to be commensurate with reduced risk, and insurers should commit to multi-year discounted premiums. A single year of reduced insurance cost is not commensurate to raising your house or replacing your roof.

People should be able to take simple steps to make their home more resilient and reduce their risks. Insurers should be required to consider the impact of any measures that a person has taken to reduce risks when determining the price of a new or renewing insurance policy, and should explain how this has been assessed. This requirement should be reviewable by AFCA. The insurance industry should work with consumer stakeholders to develop tools, where necessary, for consumers to easily verify mitigation works.

People also need clear guidance about the steps they could take to reduce their exposure to insurable weather events. These messages need to be simple and actionable, with tangible benefits. Actively involving communities in the dissemination of risk mitigation information

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<sup>55</sup> The Hon Stephen Jones MP, Assistant Treasurer and Minister for Financial Services. "[Address to the Insurance Council of Australia Conference](#)" 12 October 2023

can also spread the burden of knowledge across the whole community. For example, after the 2011 Brisbane floods, the Yeronga Community Centre was funded to help the local community prepare for disasters and assist in the recovery phase too.<sup>56</sup>

In an interview with CHOICE, the Climate Council observed that property-level, risk mitigation is occurring across Australia:

*“People will do stuff every year to manage the fire risk around their property and a lot of that is not big investments... There is a lot of stuff that people can do to reduce risk significantly, but [they] do require some prior knowledge and a bit of work.”*

There is considerable value in both community-level and property-level risk mitigation. Resilient homes and communities will still be affected by extreme weather, but their recovery will likely be quicker and cost less.

State governments have implemented the following programs to assist disaster-affected and disaster-prone regions to implement property-level mitigation measures:

- The Queensland and Federal Governments have developed the \$741 million Resilient Homes Fund to help Queenslanders across 39 local government areas whose homes were impacted by the 2021/2022 floods.<sup>57</sup> Under the Resilient Homes Fund, funding is available to assist eligible flood-impacted homeowners to repair (enhancing resilience), retrofit or raise flood-affected homes. Voluntary Home Buy-Backs will also be considered on a case-by-case basis.
- The NSW Government’s Resilient Homes Program is providing financial assistance to homeowners to improve the flood-resilience of residential properties in the Northern Rivers Region.<sup>58</sup> It will offer eligible homeowners one of the three available measures, based on expert property assessments, flood impact severity data, safety risks and potential future flood levels: Home buybacks, home raising, or home retrofit. The NSW Government also manages the Resilient Lands Program with \$100 million in funding allocated to relocating homes to higher ground. Although this program has been slow to roll out and has not provided clear information about who is eligible.
- The Queensland Government’s Household Resilience Program provides funding to help eligible homeowners in coastal parts of Queensland improve the resilience of their homes against cyclones. Homeowners who participated in the program reported an average insurance premium reduction of 10.3%.<sup>59</sup>

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<sup>56</sup> [Yeronga Community Centre, 2023](#)

<sup>57</sup> [Queensland Government, About the Resilient Homes Fund](#)

<sup>58</sup> [NSW Government, Resilient Homes](#)

<sup>59</sup> [Joint statement, 3 June 2023, Building a resilient Queensland spirit: stronger, safer, more affordable regional homes](#)



The National Emergency Management Agency (**NEMA**), through the Strategic Insurance Project, is leading the development of a national mitigation measure knowledge base that will support households to understand their risk and the actions they can take to reduce risk.<sup>60</sup> This project to develop a national mitigation measure knowledge base may help to address this need. This may be preparatory work to deliver on the Royal Commission (2020) Recommendation 19.2 that the insurance industry, working with governments and stakeholders, should produce and communicate to consumers clear guidance on individual-level natural hazard risk mitigation actions that insurers will recognise when setting insurance premiums.

The ACCC has also previously called for insurers' quotes and renewal notices to:

- display what discounts have been applied (if any) to reflect mitigation measures undertaken on that property, and
- include a schedule of mitigation measures which customers in similar properties have undertaken to improve their risk rating and a guide to the premium reduction that consumers have received for undertaking these measures<sup>61</sup>

This important reform has yet to be adopted and would provide greater clarity to people who wish to make their home more resilient to extreme weather events.

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## Recommendations

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**28. Insurers should be required to consider relevant property-level mitigation measures in any new or renewing insurance policy, and to demonstrate how those measures have been reasonably reflected in the proposed premium.**

**29. Insurers should be encouraged to offer multi-year premium discounts commensurate to mitigation works.**

**30. Governments and insurers should provide advice on mitigation measures that people could take and provide free assessments for people who have undertaken mitigation on their homes**

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<sup>60</sup> [National Emergency Management Agency](#)

<sup>61</sup> Australian Competition and Consumer Commission, 2020, [Northern Australia Insurance Inquiry – Final Report](#) Canberra

### **c. Rental properties must be made resilient to extreme weather events**

People who rent deserve to live in resilient, safe, and healthy homes. However, many people who rent live in homes that are exposed or poorly adapted to the risks of extreme weather events. Renters are often unable to make meaningful adaptations to make their homes more resilient.

State and territory governments should modernise residential tenancies legislation to require landlords to take reasonable steps to make rented homes resilient to climate risks. Resilience should be considered a minimum habitability standard for all rental homes in Australia. For example, possible resilience changes could include upgrading roofing and windows with fire resistant materials, lifting the height of power sockets or waterproofing exterior walls. These requirements could be phased in over time to allow landlords time to implement improvements.

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## **Recommendation**

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**31. State and territory governments should amend residential tenancy laws to require landlords to take reasonable steps to make rented homes resilient to climate risks.**

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### **d. Lower income homes should be supported to make their homes more resilient**

Many homeowners will not have the financial means to invest in risk mitigation measures. In some cases, financial assistance will be needed to undertake cost-effective retrofits to make housing more resilient. Financial assistance will need to be tailored to the needs of different groups including private renters, community housing and owner-occupiers.

Households on lower incomes should be empowered to make changes which make their home more resilient to climate risks. The Federal Government is investing in community-level mitigation through its Disaster Ready Fund which provides up to \$200 million annually to build disaster resilience and mitigation projects across Australia<sup>62</sup> but this fund is not currently available to support property-level mitigation. If just 5% of the Disaster Ready Fund were set aside for this purpose, \$10 million could be available annually to help owners reduce their risk exposure in highly exposed communities.

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<sup>62</sup> National Emergency Management Agency, [Disaster Ready Fund](#).

Governments should make free property assessments available to homeowners on lower incomes to recommend mitigation measures. For example, the NSW Resilient Homes Program has included free property level assessments for any homes damaged in the 2022 floods.<sup>63</sup> This opt-in program provides homeowners with a free, detailed assessment report, including a comprehensive scope of repair works and an estimate of repair costs. This type of service should be made more broadly available for other households struggling with insurance affordability.

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## Recommendation

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**32. Allocate financial assistance for mitigation measures. Governments should allocate sufficient funding to assist property owners on low incomes and social housing providers in disaster-prone regions to undertake approved, cost-effective property-level mitigation measures.**

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### **e. People in exposed housing need support**

While retrofitting and measures like raising homes plays an important role in protecting some people from risk, relocations and buybacks need to be considered for people that live in highly exposed areas. Coordination will need to occur across all governments to identify the areas most at risk and plan, in consultation with communities, to move them to safer areas. There is consistent agreement among stakeholders that local, state and federal Government land use planning needs to change to ensure we are not building homes in areas that will become exposed to climate perils in 10 or 20 years' time, but there is a lot less discussion around relocating homes that have already been built in dangerous areas even though this could have an important impact on the availability and affordability of insurance.

Community relocation due to natural hazard risk is not a new concept in Australia. Gundagai in New South Wales and Clermont in Queensland provide two historical examples of townships that were relocated after floods as both towns experienced severe loss of life.<sup>64</sup> In Gundagai, 89 people out of a population of 250 drowned in May 1851 (Australia's worst-ever flood in terms of loss of life) and 64 people drowned in Clermont on 28 December 1916.<sup>65</sup> Following devastating flash floods that resulted in the death of 12 people in Grantham, Queensland in

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<sup>63</sup> NSW Government, Department of Customer Service, 2023, [The Flood Property Assessment Program](#)

<sup>64</sup> King, D, Bird, D, Haynes, K, Boon, H, Cottrell, A, Millar, J, & Thomas, M, 2014, [Voluntary relocation as an adaptation strategy to extreme weather events](#). International Journal of Disaster Risk Reduction, 8, 83-90

<sup>65</sup> *ibid*

January 2011, local council implemented a voluntary land-swap scheme to relocate residents from the floodplain to higher ground and as of July 2013, 115 households had signed up to relocate to the new Grantham.<sup>66</sup>

As these examples illustrate, relocations have typically only occurred in the aftermath of devastating events. Governments must instead take a proactive approach to protecting communities in areas exposed to high risk.

Natural disasters cost Australia an average of \$38 billion a year<sup>67</sup> and have a devastating impact on the mental health of people affected. Planned relocations and buybacks will help prevent future harm, taking people out of the path of natural disasters and lowering the cost of recovery for clean-up, emergency services and rebuilding of infrastructure.

Recognising that relocation and buybacks require coordination across all levels of government, National Cabinet should agree on a consistent framework for planned relocation. This could be modelled on the recent IAG and Rhelm report.<sup>68</sup> IAG and Rhelm recommended that a national strategy should cover:

- Key objectives and performance indicators for Planned Relocation Schemes.
- Models for Planned Relocation (e.g. buy-back and community relocation).
- Guidance on the planning, decision-making, implementation, and integration phases.
- Models for holistic community engagement, including specific considerations for First Nations People.
- Consideration of vulnerable community members, including people with a disability and the elderly.
- Guidance on land use planning and management, including the management of vacated land.

#### **f. Governments need to provide funding for community-led conversations**

*"I knew I was buying in a floodplain but did not want to risk being on the rental market. I begged, borrowed and stole to get across the line to get approval and pay off the house – I had stayed in less than-ideal rentals."<sup>69</sup>*

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<sup>66</sup> *ibid*

<sup>67</sup> Deloitte, Special report: Update to the economic costs of natural disasters in Australia, Australian Business Roundtable for Disaster Resilience & Safer Communities, 2021

<sup>68</sup> IAG & Rhelm, 2023, Planned Relocation Protecting our communities

<sup>69</sup> Quote from an individual, homeowner who was uninsured and experienced a flood in Kyogle, NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023

*"We moved to an area known to flood repeatedly. When we came in 2011, we knew that there had been previous floods, but did not know what that would mean."<sup>70</sup>*

Governments should commit targeted funding to enable community consultations about how to respond to natural hazard risks in dangerously exposed communities. Community-centred consultation for people living in extremely exposed areas, before, during and after disasters, can help to reduce the confusion and stress that people typically experience. Governments involving communities in decision making will empower them and create better outcomes that reflect their needs and expectations.

Currently, community engagement is occurring on an adhoc basis, largely dependent on the strength of individual communities and local governments within the confines of existing programs such as the Queensland Resilient Homes fund and the New South Wales Resilient Homes Program. A consistent approach across Australia should be adopted with adequate funding to identify communities most at risk from natural disasters and involve them directly in the decisions being made about their future.

Consumer advocates consider the Queensland's Resilient Homes Fund as an effective example of governments supporting people in extremely exposed communities. The fund is a pool of \$741 million available to Queenslanders in 39 local government areas whose homes were affected by the floods of 2021-22. It gives eligible homeowners the options to repair, retrofit, raise or demolish their home. For the most severely impacted people, who remain at a high risk of future flooding, there is also an option for a voluntary home buyback. As of late June 2023, 800 homes were deemed eligible for the buyback program, 370 offers had been accepted by homeowners and 238 homes were sold.<sup>71</sup>

The Resilient Homes Fund also involves local government in the management of the buyback scheme. Coordination across all levels of government is important in providing affected people with the support to recover and be more resilient for future extreme weather disasters. Appropriate community consultation is being undertaken to ensure people have their voices heard, understand their level of risk and are aware of their options. This model could be expanded across Australia in communities which are in exposed communities.

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<sup>70</sup> Quote from a male, homeowner who was insured and experienced a flood in Berkeley Vale NSW. This person was interviewed as a part of CHOICE's social research interviews with 21 homeowners and renters. Interview conducted between January and April, 2023

<sup>71</sup> Joint Media release, 2023, [More Queensland homes to benefit from voluntary buybacks](#),

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## Recommendations

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33. Plan for relocation of communities at high risk National Cabinet should agree on a clear and consistent approach to supporting relocation of communities that face high risk of natural disasters.
34. Fund community engagement Governments should provide funding for dangerously exposed communities to undertake consultations about ways to mitigate future risk, including the possibility of relocation.
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## Concluding Remarks

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact Financial Rights on (02) 9212 4216.

Kind Regards,



Karen Cox  
Chief Executive Officer  
Financial Rights Legal Centre



Rosie Thomas  
Director Campaigns and Communications  
CHOICE