**Code of Insured Persons’ Rights**

Consultation guidance and draft Code

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# We’re consulting on the Code of Insured Persons’ Rights

We’re asking for your feedback on a draft Code of Insured Persons’ Rights. The Code will set expectations for fair and timely management and settlement of claims under our natural hazard insurance scheme.

We’re inviting New Zealanders to give us feedback on the draft Code.

## Why we need a Code

The Code will set the standard of service that insured people can expect from Toka Tū Ake EQC (us) and anyone working on our behalf to manage and settle claims after a natural hazard event, such as an earthquake or landslide. Learn more about insurers working on our behalf under the [Natural Disaster Response Model.](https://www.eqc.govt.nz/insurance-and-claims/natural-disaster-response-model/)

New Zealand homeowners with a current home insurance policy that includes fire insurance are covered by Toka Tū Ake for natural hazard damage to their home and some of their land. You may also have cover under your private insurance policy.

The Code is a requirement of the new Natural Hazards Insurance Act 2023 (NHI Act), which will take effect on 1 July 2024. The new Act will replace the Earthquake Commission Act 1993, although claims made under the Earthquake Commission Act 1993 will continue to be settled under it.

Under the NHI Act, we’ll be renamed Toka Tū Ake – Natural Hazards Commission. We’ll continue to provide natural hazards insurance under the NHI Act.

The NHI Act addresses the lessons learnt from the Canterbury and Kaikoura earthquakes and other natural hazard events, as well as the Public Inquiry into the Earthquake Commission (Toka Tū Ake). Recommendations from the inquiry included improving the experience of insured people when they make a claim for natural hazard damage. One step towards this is clearly defining their rights in the Code.

## What the Code means for insured people

From 1 July 2024, the Code will apply when we (or our agents) are dealing with an insured person in relation to a claim for natural hazard damage covered under the NHI Act.

Insured people will be able to complain to us if they think we (or our agents) have breached the Code. We’ll deal with the complaint in line with our complaint procedure. If we find a breach, we’ll resolve it using one of the methods listed in the Code.

If the insured person is unsatisfied with the outcome, they may apply for an independent review of the decisions.

We’ll publish the Code and the complaint procedures. We’ll also promote them to raise awareness.

## What we want to hear from you

We want to make sure the Code works for insured homeowners so we’re asking for your feedback on the draft.  We have developed the Code considering other similar Codes that support people working with government agencies.

Some questions to consider are:

* Will the rights and obligations set out in the draft Code support us to manage and settle claims promptly and in a way that’s fair?
* Are there any other rights not included in the draft Code which you believe should be included?
* Will the obligations the Code sets out for us (and our agents) help protect the rights of insured persons?
* Will the remedies and listed actions put things right if there has been a breach of the Code?
* Is there anything else you would like to tell us?

## How to make a submission

You can give us your feedback in writing, online or over the phone.

You can:

* [Use the online form](https://forms.office.com/r/bLjidQcWyh)
* Use the MS Word feedback form and email it to [publicconsultation@eqc.govt.nz](mailto:publicconsultation@eqc.govt.nz)
* Post your submission to Attn: Code consultation, PO Box 790, Wellington 6140
* Call 0800 326 243 to make a verbal submission – a member of our team will talk you through the feedback form and fill it out on your behalf.

You do not need to respond to all of the questions. You can make your submission anonymously if you wish to do so.

**Submissions close at 5pm on Thursday 30 November 2023.**

We look forward to receiving your feedback. Please make only one submission.

Please note: we will not be replying to individual submissions. If you have any other questions or concerns, [please visit our website](https://www.eqc.govt.nz/contact-us/), or call the contact centre on 0800 326 243.

## Submissions are public information

We may release any part of your feedback (not including your name, email address or other identifying information you provide) under the Official Information Act 1982 if someone requests it. Please consider this when filling out your submission.

We’ll hold and use any personal information you provide in line with the Privacy Act 2020. We’ll only use your information for the purpose of developing the Code. You have the right to request access to, or to correct, any personal information you provide. Please only share your own information or information that you have permission to share on someone else's behalf. We’ll only contact you if you indicate that you want us to.

## How your submission will be used

Your feedback will help us develop the final Code of Insured Persons’ Rights which will be presented to the Minister Responsible for the Earthquake Commission for approval.

## Next steps

All submissions made by 30 November 2023 will be considered. In early 2024, we’ll release a written summary outlining how consultation feedback has contributed to the development of the Code.

# Overview of the draft Code of Insured Persons’ Rights

This section provides a description of the seven sections of the draft Code. The draft Code itself is below this section.

## Part 1: Introduction

Part 1 sets out the purpose of the Code and provides definitions of the terms used. The Code will apply to Toka Tū Ake and any agent working on our behalf to manage and settle claims under our natural hazards insurance scheme.

Disputes about settlement of claims are not dealt with under the Code. The Code sets out alternate avenues for these (see part 7 below).

## Part 2: Rights of insured persons and obligations of the Commission

Part 2 sets out nine rights of insured people and the obligations on us (and agents working on our behalf) to protect those rights. These rights and obligations will support us to fulfil the purpose of the Code which is to ensure claims are managed and settled in a fair and timely manner.

## Part 3: Complaint procedure

Part 3 sets out that we will have a complaint procedure for dealing with all complaints, including those relating to breaches of the Code. The procedure will be available on our website. We may refer the complaint to another process or body if it’s more appropriate, such as where a complaint relates to a privacy concern or breach.

## Part 4: Remedies available under this Code

Part 4 set outs the remedies we may provide when we find the Code has been breached.

## Part 5: Identifying and addressing issues

Part 5 sets out that we may investigate and resolve patterns of issues that appear in complaints. An insured person may also raise a particular concern with an internal policy or process of ours.

## Part 6: Insured person’s right of review

Part 6 sets out that where a person remains unsatisfied about a decision that has been made about a Code complaint, they can apply to have that decision independently reviewed.

## Part 7: Dispute resolution

Part 7 sets out that a dispute resolution service will be available for insured people where they have a dispute about certain types of decisions. We’ll be seeking feedback on this dispute resolution scheme in early 2024. You can let us know if you’d like us to tell you when this is open.

## Helpful points for clarity

* The draft Code refers to “Toka Tū Ake the Natural Hazards Commission” – this is because this will be our new name as of 1 July 2024.
* The Code will apply when we (or our agents) are dealing with an insured person in relation to a claim for natural hazard damage covered by our natural hazards insurance scheme.
* The Code will take effect from 1 July 2024. Interactions that happen before that date will not be covered under the Code.
* Insured people with claims made before 1 July 2024 will be covered by the Code for any interactions that occur after 1 July 2024.

# Draft Code of Insured Persons’ Rights

## Part 1: Introduction

**1.1 Purpose**

This Code of Insured Persons’ Rights (this **Code**) has been established under sections 88 and 89 of the Natural Hazards Insurance Act 2023 (the **Act**).

The purpose of this Code, as reflected in section 88 of the Act, is to set out rights of insured persons and obligations of Toka Tū Ake – Natural Hazards Commission (the **Commission**) that seek to ensure that the Commission is managing and settling claims in a fair and timely manner.

This Code:

1. confers rights on insured persons, and imposes obligations on the Commission, in relation to how the Commission should deal with insured persons, particularly in relation to the timeliness of managing claims and the fair treatment of insured persons; and
2. provides remedies for a breach of the Code; and
3. explains an insured person’s rights -
4. to have complaints to which the complaint procedure applies dealt with in accordance with that procedure
5. to have decisions made by the Commission under the complaint procedure in relation to breaches of the Code dealt with in accordance with the review procedure and
6. to refer disputes about referable decisions to the dispute scheme.

**1.2 Commencement**

This Code comes into force on 1 July 2024.

**1.3 Definitions**

**Commission** means Toka Tū Ake – Natural Hazards Commission as defined in section 125 of the Act and for the purposes this Code, unless the context requires otherwise, includes persons acting as agents of the Commission.

**Insured persons** means the person who is, or all of the persons who are, entitled to the benefit of the fire insurance contract as defined in section 22 of the Act.

**We** means the Commission.

**You** means insured persons.

**1.4 Application of this Code**

This Code applies to anything that is done or occurs after the commencement date of the Act in relation to claims made under either the Act and/or under the Earthquake Commission Act 1993.

The rights conferred on an insured person by this Code are in addition to an insured persons’ rights, obligations, responsibilities and entitlements as set out in the Act and under any other enactment or the general law, including but not limited to the Privacy Act 2020, the Ombudsman Act 1975, the Human Rights Act 1993 and Public Service Act 2020.

**1.5 Code complaints and dispute resolution**

A complaint about a breach of this Code will be addressed in accordance with this Code and the requirements of the Act or any other relevant legislation.

Any dispute about a referable decision defined in section 104 of the Act may be referred to the dispute resolution scheme as explained in Part 7 of this Code.

## Part 2: Rights of insured persons and obligations of the Commission

The nine rights of insured persons, and the Commission’s corresponding obligations, are as follows:

1. **You have the right to be treated with dignity and respect.**
2. We will treat you with honesty and courtesy.
3. We will act transparently and with integrity.
4. We will listen to you and consider your views.

1. **You have the right to effective communication.**
2. We will communicate with you openly, honestly and effectively.
3. We will respond to your questions in a timely manner.
4. We will provide you accessible information in a timely manner.

1. **You have the right to be fully informed.**
2. We will provide information on your rights under this Code.
3. We will provide information on how to make a natural hazard damage claim.
4. We will provide information about our processes, your claim and cover, your entitlements and your options if you do not agree with our decisions, in accordance with all relevant legislation.
5. We will keep you updated on expected time frames.

1. **You have the right to have your personal information protected and respected.**
2. We will comply with all relevant legislation relating to personal information and privacy. This includes:
3. We will advise you when and why your personal information is being collected.
4. We will keep your personal information safe and secure.
5. We will give you access to the personal information we hold about you and respond to requests to correct any mistakes or inaccuracies.
6. We will use and share your personal information appropriately.

1. **You have the right to support.**
2. We will provide you with an interpreter or other suitable assistance when necessary.
3. We will welcome you and your support person(s) to engage with us provided that the safety of all can be assured.

1. **You have the right to have your culture, values and beliefs respected.**
2. We will be respectful of your culture, values, and beliefs.
3. We will be respectful of Māori culture, values, and beliefs.

1. **You have the right to complain.**
2. We will inform you about the complaint procedure, and the expected timeframes for dealing with complaints.
3. We will act in accordance with the complaint procedure.

1. **You have the right to have a decision made about a breach of the Code independently reviewed.**
2. We will inform you about the review procedure, and the expected timeframes for dealing with reviews.
3. We will act in accordance with the review procedure.

1. **You have the right to have certain claim disputes referred to an external dispute resolution scheme.**
2. We will inform you about the dispute resolution scheme process.

## Part 3: Complaint procedure

The complaint procedure is for all complaints, including complaints made about breaches of this Code. The procedure is published on the Commission’s website and is otherwise available upon request. The Commission will manage complaints in accordance with the procedure.

If, while investigating a complaint made against the Commission, issues of performance or conduct of an employee or employees of the Commission or its agent arise, these will be dealt with under the normal human resources policy and processes of the Commission or its agent, having due regard to employment law.

The Commission may, at its discretion, refer the complaint to another process or body if it considers that it is more appropriately considered under that process or by another body.

## Part 4: Remedies available under this Code

Upon a finding that there has been a breach of this Code, where appropriate, the Commission may -

1. provide a written or oral apology
2. provide a written or oral explanation of the situation
3. meet with the insured person to consider the insured person’s views and resolve their concerns, accompanied by the insured person’s support person(s) where requested
4. provide information to the insured person, in an appropriate form, which explains –
5. any appropriate process, services and the expected timeframes
6. any appropriate information about the insured person’s claim
7. the process to apply for an independent review of a complaint decision
8. the process to file a dispute with the dispute scheme
9. any other information that the Commission considers relevant to resolve the complaint
10. provide the insured person with access to their claim file
11. ensure a response is given to questions and requests.

In addition, the Commission may, at its discretion, provide other remedial actions as required.

## Part 5: Identifying and addressing issues

In addition to the remedies in Part 4, where appropriate the Commission may address issues by -

1. analysing and monitoring the issues raised by insured persons
2. identifying concerns with operational policies and processes
3. subsequently investigating and remedying concerns associated with operational policies and processes as appropriate; and
4. informing the insured person how the situation has been addressed.

## Part 6: Insured person’s right of review

A person who is dissatisfied by, or disagrees with, a decision made by the Commission under the complaint procedure in relation to a breach of this Code may apply for an independent review of that decision. The Commission will provide information about the review procedure to the insured person when it communicates a decision made under the complaint procedure. The review procedure is set out in sections 92 to 100 of the Act and any associated regulations.

## Part 7: Dispute resolution

The Commission must be a member of a dispute resolution scheme for resolving disputes about the Commission’s decisions on the validity or settlement of claims.

If the Commission has made a referable decision about a claim, an affected person who disputes the decision may refer the dispute to the dispute scheme. The Commission is a party to dispute resolution proceedings and must participate in the resolution of the dispute.

The terms ‘referable decision’ and ‘affected person’ are defined in section 104(6) of the Act.  Referable decisions are not decisions relating to breaches of this Code.