

Summary of consultation on the draft Code of Insured Persons' Rights

In October 2023, we invited New Zealanders to give us feedback on a draft Code of Insured Persons' Rights. This summary document shares key insights from submissions we received on the draft Code and sets out how these have contributed to Code development.

What is the Code?

The Code of Insured Persons' Rights is a requirement of the Natural Hazards Insurance (NHI) Act 2023, which takes effect on 1 July 2024. The Code sets expectations for fair and timely management and settlement of claims under our natural hazard insurance scheme.

EQC Toka Tū Ake, which will be renamed Natural Hazards Commission Toka Tū Ake from 1 July 2024, is a New Zealand Crown entity that provides insurance cover for homeowners to help them recover from certain natural hazard events.

New Zealand homeowners who have a private insurance policy in place for their home are covered by EQC Toka Tū Ake for damage caused by natural hazard events to their home and some residential land within the limits of cover.

From 1 July 2024, the Code will apply when we (or insurers acting as our agents) are dealing with a homeowner on a claim for natural hazard damage. Homeowners will be able to make a complaint where they think we (or insurers acting as our agents) have breached the obligations in the Code.

We'll deal with complaints about the Code in line with our complaint procedure. If a homeowner is unsatisfied with the outcome of a complaint, they can apply for an independent review of the decision.

About the consultation

We released the draft Code, background information and a submission form for public consultation in October 2023, via our website. We asked submitters to consider how the draft Code met its purpose, if it could be improved, and what it was missing.

Public consultation on the Code took place from mid-October to the end of November 2023. Submitters were invited to provide feedback through a range of channels - an online feedback form,

email, by post or verbal submission. We also held engagement sessions with interested stakeholders.¹

Who we heard from

We received 25 written or verbal submissions from individuals and representatives from various organisations:

- 8 individuals
- 3 government agencies
- 6 businesses
- 8 interest groups or community organisations

Submission analysis

We used a thematic approach to identify themes from all written and verbal submissions. The below sections summarise the key themes. The statements are paraphrased from our submitters – they are not representative of EQC’s view except where our view is indicated.

Please note that this is a summary document only and not a full account of or a response to contributions received. It is also not an exhaustive list of changes made. We’ve tried to capture the nature of statements made on each theme and give a sense of the proportion of submitters who made those statements (e.g. “many submitters expressed...”, and “one submitter said...”).

Key themes

The Code should include obligations on the insured person.

A few submitters suggested that the Code should include obligations on the homeowner, and any consequences of them not being met. Submitters suggested that homeowners have the right to know what will be expected of them through the claims process.

This change would reflect the insurance industry’s Fair Insurance Code, which does include obligations on the homeowner. Several submitters were interested in seeing consistency between the Code and the Fair Insurance Code.

The Code isn’t detailed enough in relation to timeliness.

Many submitters expressed the view that the Code did not go far enough in relation to timeliness or timeframes. Several different suggestions were made by a range of submitters:

¹ We presented to stakeholders on the information in the publicly available guidance document, answered questions and took verbal submissions on the Code.

- The concept of 'timely' is very open to interpretation.
- We should have a specific obligation to manage and settle claims in a timely manner.
- The Code should have measurable and specific timeframes that are consistent with the Fair Insurance Code.
- There should be an explicit tie between timeframes and what is reasonable.
- Homeowners should be informed if there are any changes to previously communicated timeframes before these expire.
- The commitment to advise homeowners of expected timeframes is positive and should be retained.

The Code should include an obligation to train staff.

Some submitters suggested that the Code should have various obligations relating to staff training, including:

- An obligation about providing sufficient training to staff and agents on how to comply with the Code.
- An obligation that damage assessments are undertaken by competent, trained people who communicate the results clearly.
- The right to receive service of an appropriate standard.

The Code should address the varying needs of disabled people.

Several different submitters made the following comments:

- Local and international research has found that disabled people are most at risk in natural disaster and emergency situations.
- It is important to recognise that disabled people are impacted in multiple ways when it comes to emergency situations.
- The Code should be consistent with Article 21 of the United Nations Convention on the Rights of Persons with Disabilities.
- The process should be flexible enough that it allows for communication using the homeowner's preferred method.
- Staff need to be trained on accessibility considerations and information should be provided in alternative formats.

Specific suggestions for changes noted by submitters were that the Code should include:

- An explanatory note clarifying that the right to accessible information extends to disabled people and other groups who need this.

- The right to feel safe.
- The right to be treated equitably and with fairness at all stages.
- More time or a faster response because of disability or impairment-related needs.
- The right to receive services in ways that are both flexible and accessible.
- Every person's autonomy must be fully respected.
- A right enabling homeowners to specifically nominate someone to lead engagement on their behalf.

The Code should be written in plain language.

Many submitters suggested the Code would benefit from plain language as this would help support homeowner understanding. Plain language refers to communication that the audience can understand the first time reading or hearing it. Specific suggestions included:

- Use 'start date' instead of 'commencement.'
- Explain what a referable decision is in plain language.
- Use 'process' instead of 'procedure.'
- Use bullet points instead of a, b, c and so on.
- Use dispute resolution service instead of scheme.
- The Code should be restructured so that information about rights is up front and information about definitions etc is at the end.

One remedy under the Code should be financial compensation.

Two submitters suggested financial compensation, or a financial penalty, should be included as a remedy within the Code.

Several changes should be made to make the Code clearer and more practical.

Several submitters noted that changes could be made to make the Code clearer, and more in line with the realities of managing and settling claims under legislation. These suggestions included:

- EQC is already required to explain the decisions it makes; therefore, this could be added to the Code to provide clarity for homeowners.
- A reference to the right to request the personal information we hold about an individual should be included.
- Including the obligation to consider the views of the homeowner may imply that we can always do what the homeowner wants, which isn't always possible when following legislation.
- EQC may not always be able to resolve the concerns of a homeowner, therefore the remedies should not imply we can in every case.

How the Code is implemented is important.

We received a substantial amount of feedback on how to implement the Code.

- There needs to be staff training and support to deliver services and obligations required under the Code.
- How will the Natural Hazards Commission and insurers be held accountable to meet the requirements of the Code?
- There is a need for public education and guidance about the Code.
- Less formal ways for providing feedback should be available as not everyone will want to make a complaint.
- Remedies will need to be applied recognising the different needs and situations of homeowners.

What we changed as a result of feedback

The contributions of those who made submissions and met with us have been an important and beneficial part of the Code development process. Sections of the Code now include submitters' perspectives, ideas and feedback. Key feedback themes have been incorporated as follows:

- **Obligations on homeowners** – we have included a general reference to the obligations, responsibilities, and entitlements of homeowners outside of the Code. We have included the example of the obligation under the NHI Act that a homeowner has to provide information that is up to date.
- **Timeframes** – we have included a new timeframe-related right, which sets obligations on EQC to communicate expected timeframes when managing and settling claims, to adhere to any communicated timeframes as far as reasonably practicable, and to communicate where these timeframes aren't able to be met.
- **Appropriate forms of communication** – we have included the obligation on EQC to use appropriate forms of communication to meet the homeowner's needs when requested and to the extent it is reasonably practicable.
- **Reasonable accommodations** – we have included an obligation to respond to requests to make reasonable accommodations. This term is defined in article 2 of the United Nations Convention on Rights of Persons with Disabilities, and the Ombudsman NZ provides guidance on this [here](#).
- **Definitions** – for ease of reference for readers, we have included a more fulsome list of definitions in the Code.
- **Explaining the decisions we make** – we have added obligations to listen to homeowners, explain the decisions we make and explain why we have made them. This has been added to right 3 "you have the right to be fully informed."
- **Give you access to personal information** – the privacy-related right reflects existing privacy law.

For clarity, we have included the obligation that when someone makes a request for personal information we hold about them, we will provide it. This would include information we've relied on to manage and settle their claim.

Next steps

Thank you to everyone who shared their insights, knowledge and feedback to inform the development of the Code.

The Code has now been finalised and we are working with insurers, as our agents, and our teams to ensure we fully understand the rights and obligations and are prepared when the Code takes effect on 1 July 2024.

The Code will be published on our website closer to 1 July.

We are also finalising the complaints procedure and independent review procedure which will support the Code. This information will also be published on our website, in time for the NHI Act and the Code to take effect on 1 July 2024.