



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

27 March 2019

Manager, Insurance and Financial Services Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

By email: claimshandling@treasury.gov.au

Dear Sir/Madam

INSURANCE CLAIMS HANDLING

We support the removal of Regulation 7.1.33 and changing the definition of 'financial service' to include insurance claims handling. Such a change will force insurers to hold an Australian Financial Service License and be accountable to the regulatory oversight of the Australian Securities and Investments Commission. Licencing will require insurance providers to supervise their representatives to act promptly and not delay decisions on claims, critical for the ongoing survival of many small businesses

The poor conduct exhibited by insurers highlighted in the Royal Commission in handling general insurance claims is of particular concern to small businesses. During events like natural disasters, it is essential that small businesses receive timely payment of claims. Small business cash flows struggle to mitigate the immediate costs of major unexpected events. Delays or mismanagement of insurance claims can cause the collapse of a small business.

It must also be recognised that there is a need for training of case managers in specialist areas and improvements to dispute resolution schemes. Small business insurance assessment requires specialist knowledge in order to adequately assess property and equipment claims in areas such as agriculture businesses. In these cases, an inexperienced or remote assessor is likely to provide poor outcomes. In addition, with no effective dispute resolution scheme, small businesses who lack time and monetary resources will have little option but to accept a substandard claim outcome.

Finally, classification of insurance claims handling as a financial service must be coupled with an expansion to the specified kinds of general insurance products currently listed under the definition of 'retail client' in the Corporations Act. While the definition of 'retail client' does capture small businesses, it does not capture the specified kinds of general insurance products most commonly acquired by small businesses.

T 1300 650 460 E info@asbfeo.gov.au
www.asbfeo.gov.au

Office of the Australian Small Business and Family Enterprise Ombudsman
GPO Box 1791, Canberra City ACT 2601

The need to include insurance as a financial service is critical to address the challenges small businesses currently face as demonstrated in the following case studies:

Storm or flood damage?

- Over 100 small businesses were affected by the Lismore and Murwillumbah floods in 2017. The NSW Small Business Commissioner's office assisted in these cases and found wide-ranging inappropriate practices by insurance companies. These included: using the vague distinction between storm damage and flood damage to reject claims, a lack of proper assessments and prioritisation of residential claims, assessors not considering business needs on a case-by-case basis which resulted in many small businesses being denied claims based on non-specific assessments, and major delays of up to 12 months for cases to go through internal dispute resolution processes. During this time the overwhelmed small businesses did not receive adequate assistance and were unable to make decisions and proceed in their recovery because they were waiting on insurance claim outcomes. This event was not an isolated incident as very similar cases were identified during the recent Townsville flooding event.

Manufacturers liability

- A small business had a Dairy installed at their farm at a cost of around \$2 million. Issues surrounding the installation and damages caused during servicing by the manufacturer resulted in the cows becoming ill and lead to the eventual culling of 200 animals. The manufacturer refused to take responsibility for these issues. Both the small business and the manufacturer were covered by subsidiaries of the same major insurance company who appointed a single officer to 'manage' both matters. Major delays were experienced in the dispute resolution process. The insurance company was the primary reason for the delays. At first they would not confirm if the parties were covered (then confirmed they were), they encouraged the small business to submit claims which they rejected and then used the information provided to them in those claims to support themselves. They required reports be conducted at the expense of the small business, but then spent months conducting their own review because the initial reports were in favour of the small business. The delay and misconduct by the insurer meant that the small business was out of operation for around 3 years while the dispute was resolved, yet it still had to spend a large amount of money on a legal team, several reports and mediation (which is where the matter was resolved).

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Jill Lawrence on 02 6121 5312 or at jill.lawrence@asbfeo.gov.au.

Yours sincerely



Kate Carnell AO

Australian Small Business and Family Enterprise Ombudsman