

Insurance Brokers
Code of Practice



N I B A



THE HONOURABLE CHRIS PEARCE MP
Parliamentary Secretary to the Treasurer
Federal Member for Aston

Mr N Pettersen
Chief Executive Officer
National Insurance Brokers Association
Level 18
111 Pacific Highway
NORTH SYDNEY NSW 2060

Dear Mr Pettersen

Thank you for your letter of 15 May 2006 concerning the Insurance Brokers Code of Practice (the Code) proposed by the National Insurance Brokers Association (NIBA).

The Australian Government welcomes industry initiatives for the development of self-regulatory codes of practice. I am pleased to express my support for the new NIBA Code.

The insurance broking industry is one of a growing number of Australian financial services industries that are embracing the need to go beyond legislation by voluntarily laying down rules for dealing with customers.

I am confident that the NIBA Code will be an effective tool in the self-regulation of insurance brokers and will assist in increasing consumer confidence in the insurance broking industry. The Code will complement the world-class regulatory system established by the Australian Government for the insurance industry as well as providers of other financial services.

I am particularly interested to note that the new Code will be independently monitored and administered by Insurance Brokers Disputes Ltd, which operates a national complaints handling scheme approved by the Australian Securities and Investments Commission.

I congratulate NIBA and the insurance broking industry on their initiative in embracing self-regulation as a means of further improving the service they provide to customers.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Pearce', written in a cursive style.

CHRIS PEARCE

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1. INTRODUCTION

1.1 The Insurance Brokers Code of Practice is intended to promote:

- (a) Good relations between insurance intermediaries that are members of the Code and their clients, insurers and others involved in the insurance industry.
- (b) Efficiency in transactions by describing standards of good practice and the level of service to be expected from Members.

1.2 In summary, the Code:

- (a) Has been created by the National Insurance Brokers Association of Australia (NIBA) and is administered by the independent Insurance Brokers Disputes Limited (IBD).
- (b) Principally applies to general insurance services (other than reinsurance) and life insurance services. It also applies to a limited extent to services provided in association with them, such as risk management, inspection, valuation and arrangement of premium funding.
- (c) Sets out the responsibilities of members in providing their services.
- (d) Requires members to establish an internal dispute resolution process.
- (e) Provides for the imposition of binding orders or sanctions on the member for any breach. However, no monetary penalties apply.
- (f) Does not create legal or other rights between the member and any person other than NIBA, with which it contracts in relation to the Code. A member's client is able to make a complaint under the Code for any breach of the relevant standards or provisions and seek to have it resolved in accordance with the Code terms.
- (g) Will be updated as appropriate by NIBA and formally reviewed by NIBA every three to five years in consultation with the Australian Securities and Investments Commission (ASIC), consumer representatives and the industry.

2. OBJECTIVES OF THE CODE

2.1 The Code is intended to:

- (a) Describe standards of good practice and service to be expected of members.
- (b) Clarify what needs to be done by members to comply with relevant legislation.
- (c) Promote informed and effective relationships between members and their clients, insurers and others involved in the insurance industry.

- (d) Promote efficiency in transactions in which members are involved and the effectiveness of the members' services to clients, insurers and other involved in the insurance industry.
- (e) Promote the effective resolution of disputes between members and clients.
- (f) Provide for a system of review to minimise non-compliance and maintain high standards of compliance by members.
- (g) Provide for client involvement in dispute resolution and reviews of the Code.

2.2 The Code provides for enforcement of its provisions, the making of orders and the imposition of sanctions.

3. PRINCIPLES OF THE CODE

3.1 The objectives of the Code will be achieved and the provisions of the Code will be applied having regard to:

- (a) The requirement of members to meet the standards established at general law and statute, in particular but in no way limited to Part 7 of the Corporations Act 2001, the Insurance Contracts Act 1984, the Australian Securities and Investments Commission Act 2001, the Trade Practices Act 1974 and the Privacy Act 1988. To the extent the Code is inconsistent with any Commonwealth, State or Territory law, that law prevails.
- (b) The fact that insurance contracts and arrangements between members, clients and insurers and their agents, are substantially governed by the legislation referred to immediately above.
- (c) The need for clients of members to be made aware of the provisions of the Code.
- (d) The need to promote effective competition and cost efficiency in the insurance industry and to ensure flexibility in the development and enhancement of products and services for clients of members.

4. WHAT AND WHO THE CODE COVERS AND PROTECTS

Who are members of the Code?

4.1 A member of the Code is:

- (a) A NIBA Principal Member or Corporate Associate as defined in the NIBA Constitution or such other type of member approved by the NIBA Board from time to time; and
- (b) Any other person or entity that has adopted the Code by entering into a Deed of Adoption with NIBA.

4.2 The reference to "we", "us", and "our" in the following Sections of the Code is to the relevant member.

What services are caught by the Code?

4.3 The Code applies to the following services provided by a member (after the time they become a member):

- (a) Insurance services which means our general insurance services (other than reinsurance) and life insurance (as that term is defined in the Life Insurance Act 1995) services; and
- (b) Services provided in association with the above insurance services, such as risk management, inspection, valuation and arrangement of premium funding.

Who do the Code obligations benefit?

4.4 The Code only protects clients of a member. These are people who have been provided by the member with a service covered by the Code which is the subject of the complaint. A client does not include an insurer or its agents, any insurance broker or other type of insurance intermediary or service provider. A reference to “you” and “your” in the following sections is to a client.

What rights are provided by the Code?

4.5 All members are required to comply with the standards and provisions of the Code and any orders made or sanctions imposed as a result of the member’s breach of the Code.

4.6 The Code does not create any legal or other right as between the member and any person other than NIBA. The member makes no representation to you or any person other than NIBA that it will abide by the Code. You are able to make a complaint under the Code for any breach of the relevant standards or provisions and seek to have it resolved in accordance with the Code terms.

5. CODE STANDARDS

5.1 We have agreed to maintain the minimum standards set out in this Code that apply to the services covered by the Code. In some cases our standards may be higher.

5.2 We will in relation to our insurance services:

- (a) Discharge our duties competently and with integrity and honesty;
- (b) Exercise reasonable care and skill; and
- (c) Comply with all of our obligations at law, in particular but not limited to, those that apply to us as an Australian financial services licensee relating to the provision of advice, conflicts of interest and the maintenance of written records.

6. WHO WE ACT FOR

6.1 We normally act for you in providing our insurance services. If we don’t intend to act for you we will tell you before or at the time that we provide the service. For example, we may enter into an agreement with an insurer to arrange and/or enter into insurance policies on their behalf and/or to handle and/or settle claims on their behalf. We will inform you if we act for an insurer in this way.

7. BUYING INSURANCE

7.1 We will, in relation to your purchase of any insurance:

- (a) Act in your best interests;
- (b) Provide advice that is appropriate for your needs;
- (c) Assist you to determine your policy requirements and arrange policies for you;
- (d) Promptly provide proposal information to the insurer;
- (e) Promptly advise you if policy coverage is accepted, declined, cancelled or lapsed;
- (f) Take all reasonable steps to promptly make available to you copies of any relevant insurance documentation such as policy wordings, schedules, certificates and endorsements;
- (g) Assist with any variation, reinstatement, replacement, renewal or cancellation of your policies; and
- (h) Receive all general insurance notices from the insurer on your behalf,

unless we act for the insurer or tell you otherwise.

7.2 If we act for an insurer and not for you in arranging and/or entering into insurance we will let you know prior to providing the service. Also, we will comply with any obligation that the insurer has under any code of practice the insurer subscribes to, where this is relevant to our conduct.

8. STANDARDS FOR OUR REPRESENTATIVES AND EMPLOYEES

8.1 We will require our representatives (that is, those who act on our behalf, including our employees) when providing insurance services to:

- (a) Conduct these services competently and with integrity and honesty;
- (b) Comply with the relevant law and this Code; and
- (c) Tell you when they are acting on our behalf and in what capacity.

8.2 We will ensure that we do not authorise representatives to provide insurance services that do not match their competencies.

8.3 We will ensure our representatives receive adequate training to competently provide insurance services.

8.4 We will handle complaints relating to our representatives under our complaints-handling procedures.

9. CONFLICTS OF INTEREST

9.1 Conflicts of interest can arise when our interests may be inconsistent with your interests. For example, a conflict of interest may arise if, while acting for you in arranging insurance, we are remunerated by the insurer, or if we were to have an association with the insurer.

- 9.2 As part of our licence obligations under the Corporations Act 2001 we are required to have procedures in place to adequately manage conflicts of interest. When providing insurance services we will inform you of any material conflicts of interest that we may have. We will also answer any questions you may have about conflicts of interest and our procedures for handling them.
- 10. PAYING FOR OUR SERVICES**
- 10.1 We can be remunerated for providing our insurance services by:
- (a) Commission and/or other remuneration, benefits and rewards from insurers and others involved in the provision of insurance services;
 - (b) Fees paid by you;
 - (c) A combination of the above.
- 10.2 We will let you know prior to performing our insurance service how that service is to be paid for and whether there will be any charge in addition to the insurance premium. We will also inform you about any relevant Federal, State and Territory taxes, charges and levies that may be applicable.
- 10.3 Unless we tell you otherwise, we will be remunerated by commission from the relevant insurer whenever you enter into an insurance policy arranged by us (including renewals and variations). The commission is a percentage of the insurer's premium. It is included in the premium set out in our invoices and we receive it when you pay the premium or at such other time agreed with the insurer.
- 10.4 We will agree with you before or at the time you enter into an insurance contract if we intend to retain any of the commission paid by the insurer or any fee paid by you in the event that the policy is cancelled before the period of insurance ends.
- 10.5 We undertake to answer any questions you may have about our remuneration to ensure you are clearly informed.
- 11. MONEY-HANDLING**
- 11.1 We will answer any question you may have about the operation of the designated trust account we have established in accordance with the Corporations Act 2001. We hold in this account insurance premiums paid to us by you and certain moneys owing to you that are paid to us by insurers.
- 12. INSURANCE BUSINESS PLACED WITH OVERSEAS INSURERS NOT AUTHORISED IN AUSTRALIA**
- 12.1 We will inform you of the relevant risks involved in dealing with a foreign general insurer that is not authorised under or subject to the provisions of the Insurance Act 1973, which establishes a system of financial supervision of general insurers that carry on general insurance business in Australia. We will also seek your written acknowledgement before placing any of your insurance with such an insurer.
- 13. ASSOCIATED SERVICES**
- 13.1 We may provide you with services that are related to insurance services such as risk management, inspection, valuation and the arrangement of premium funding. If we do so, we will inform you of our role in providing the services and the method of remuneration for such services.
- 14. INSURANCE CLAIMS**
- 14.1 When we act on your behalf in relation to an insurance claim, we will:
- (a) Assist you in making a claim;
 - (b) On receiving an insurer's response to a claim inform you as soon as reasonably practical of that response; and
 - (c) Assist you in the event of a claim being disputed or rejected,
- unless we tell you otherwise.
- 14.2 When we handle and/or settle insurance claims on behalf of an insurer, we will:
- (a) Inform you that we are acting for the insurer and not for you;
 - (b) Conduct our services in a professional, honest, efficient and fair manner; and
 - (c) Comply with any claims-handling standards that apply to the insurer under any code of practice it subscribes to, where it is relevant to our conduct.
- 15. RESPONDING TO CATASTROPHES AND DISASTERS**
- 15.1 Catastrophes and disasters are widespread natural events such as bushfires, floods, earthquakes, cyclones, severe storms and hail which result in a large number of claims.
- 15.2 We will respond to catastrophes and disasters in a timely, professional and practical way and in a compassionate manner.
- 15.3 We will co-operate with and assist the Insurance Disaster Response Organisation (IDRO) in providing an industry-wide response to disasters and catastrophes.
- (IDRO is a partnership between the Insurance Council of Australia, the Insurance Ombudsman Service, the Australasian Institute of Chartered Loss Adjusters and the National Insurance Brokers Association to assist the industry in responding to community needs immediately following a disaster. For further information on IDRO visit www.idro.com.au.)*
- 16. RESOLVING COMPLAINTS**
- 16.1 We will have an internal complaints and disputes handling process in relation to our services covered by the Code which will:
- (a) Meet any relevant standard required by law;

- (b) Be free of charge;
 - (c) Be conducted in a fair, transparent and timely manner;
 - (d) Require us to:
 - (i) only ask for and take account of relevant information in considering a complaint or dispute;
 - (ii) immediately initiate action to correct any identified error or mistake in dealing with a complaint or dispute;
 - (iii) allow you to seek access to information we have relied on in assessing a complaint or dispute;
 - (iv) provide you with access to the information in (iii) above, except in special circumstances, such as where this would breach any laws (e.g. privacy) or would prejudice us in relation to the complaint or dispute;
 - (v) if we don't give access to the information in (iii), provide reasons why (in writing if you request it); and
 - (vi) follow the process specified below.
- 16.2 If you have a complaint about our services we will advise you on how we propose to resolve it within 20 business days unless:
- (a) Further information, assessment or investigation is required and you agree to an alternative timeframe. If so we will keep you informed of progress; or
 - (b) You or we wish to treat the complaint as a dispute and follow the procedure below.
- 16.3 If you tell us you are dissatisfied with our decision or a complaint is treated as a dispute by reason of 16.2 (a) or (b) above, we will refer the matter to our internal disputes resolution manager, who will consider and seek to resolve the dispute by the earlier of:
- (a) 20 business days or such later time agreed with you in order to obtain information or undertake the relevant assessment or investigation. If a later time is agreed, the manager will keep you informed of progress on a regular basis as is reasonable in the circumstances; and
 - (b) Such time limits required by law or the relevant ASIC-approved external dispute resolution scheme to which we belong.
- 16.4 The dispute resolution manager will:
- (a) Advise you of any decision they have reached in writing, including clear reasons for the decision; and
 - (b) If they have been unable to resolve a dispute with you through the above process, provide you with information on how you can seek to access the relevant ASIC-approved independent external dispute resolution scheme(s) we belong to (which is free of charge) and meet such other requirements of that scheme.

16.5 We will make information on our complaints and disputes resolution process available to you.

17. MONITORING THE CODE STANDARDS AND REPORTING AN ALLEGED BREACH

17.1 The Code standards are monitored by Insurance Brokers Disputes Ltd, to whom alleged breaches of the Code can be reported. For further information or assistance you can contact the Compliance Manager, Insurance Brokers Disputes Ltd, Level 5, 31 Queen Street, Melbourne, Victoria, 3000. Telephone 1300 78 08 08, Fax 03 9620 0166, email info@ibdLtd.com.au.

17.2 Insurance Brokers Disputes Ltd (as Code Administrator acting on behalf of NIBA), is able to impose binding orders or sanctions on us for any breach of the Code. No monetary penalties can be imposed on us.

17.3 Examples of the sanctions that may be imposed include:

- (a) Reporting breaches of the Code to ASIC, the Government regulator responsible for consumer protection in relation to insurance covered by the Code;
- (b) Requiring us to take corrective action; and
- (c) Requiring us to undertake a compliance audit.

For full details of IDB's authority under the Code, contact IBD at the address noted in 17.1.

18. INFORMATION AND EDUCATION

18.1 We will support industry education initiatives aimed at explaining insurance to consumers and the community.

18.2 We will make readily available to you:

- (a) Up-to-date information on insurance;
- (b) Information to assist you to determine the level of insurance cover you may require; and
- (c) Information about our products and services, and this Code.

18.3 NIBA will also promote this Code.

19. REVIEW AND DEVELOPMENT OF THE CODE

19.1 A formal review of the Code is to be conducted by NIBA every three to five years. In conducting the review NIBA will consult with ASIC, the Federal Government, consumers and others involved in the insurance industry.

19.2 NIBA may, prior to the formal review of the Code, modify the Code and issue guidelines as to its implementation and interpretation. The process of amendment will only be made after consulting with ASIC.



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