



# AUSTRALASIAN INSTITUTE OF CHARTERED LOSS ADJUSTERS

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## **Submission to The Treasury: Insurance Claims Handling**

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# 1 Overview

The Australasian Institute of Chartered Loss Adjusters (AICLA) welcomes the opportunity to comment on the Treasury consultation paper, Insurance Claims Handling – taking action on recommendation 4.8 of the Banking, Superannuation & Financial Services Royal Commission.

Representing professional loss adjusters in Australasia, AICLA is primarily concerned to ensure that consumers and insurers are served with the level of expertise and professionalism that should apply to loss adjusting and loss assessing services.

The current lack of registration, regulation or licensing for loss adjusters and others involved in providing claims handling and settlement advice in Australia means that there are no restrictions on who can operate and purport to be a loss adjuster or loss assessor and provide claims advice. Many complaints received by AICLA are from insureds about loss adjusters or others who are not members and have little training and no insurance qualifications. Accordingly, AICLA is pleased that action is being taken to establish a licensing regime for all those involved in handling and settlement of claims.

AICLA believes that licensing with specified minimum training and education standards for loss adjusters (and loss assessors), motor assessors, investigators and others involved in claims handling and settlement will provide consumers fairer and more efficient outcomes in claims. We have been concerned that the current General Insurance Code of Practice does not contain minimum standards expected of loss adjusters, assessors and others providing claims services.

Insurance claims represent to many consumers a major event and involve significant cash settlements or reinstatement works. Loss adjusters and others providing such critical advice to insurers and insureds should have achieved specified minimum training and education standards.

There are identifiable training and education standards that can apply to the three main areas of consumer claims: 1. domestic and commercial claims of all classes, 2. motor vehicle claims, and 3. accident and personal injury claims. A legislative framework together with regulations (or revised industry COPs) specifying the training and education for the main areas of claims will mean consumers have more confidence in insurance products and be better placed to obtain fair and efficient claims outcomes. This would create greater community confidence in the claims process.

## 2 AICLA and Loss Adjusting

### Australasian Institute of Chartered Loss Adjusters (AICLA)

#### About AICLA

With about 900 members throughout Australia, New Zealand, South-East Asia and the Pacific region, AICLA is the professional association for loss adjusters in Australia. The primary object of AICLA is to advance the profession (of Loss Adjusting) for the benefit of its practitioners and the public in general through the continual education of its Members and the encouragement of skilled, ethical and sound practice in the Profession. Our members provide claims handling and settlement services for all areas of insurance losses. A large percentage of claims services is provided in property and material damage for domestic and commercial claims. Further information about AICLA is available at [www.aicla.org](http://www.aicla.org).

#### Membership of AICLA

While there are no specific entry requirements to become a loss adjuster, most have a background in insurance and/or qualifications in a specialised area such as engineering, law, accounting, science or building and other trades.

To join AICLA, potential members must be working as a loss adjuster, must demonstrate that they have achieved minimum loss adjusting educational standards and must be prepared to abide by the Charter of Objects and Professional Conduct. There is a tiered membership structure, with Associates and Fellows eligible to use the term “Chartered Loss Adjuster” in recognition of their training and expertise. Membership of AICLA is open to loss adjusters working in specialised loss adjusting companies or working for insurers or claims specialists.

#### Professional Standards AICLA Members Must Meet

Our members agree to adhere to a [Charter of Objects and Professional Conduct](#) (‘Charter’), which set standards of ethics and conduct. Under the Charter of Objects, an AICLA Member must:

- *‘strive continually to improve his/her technical services and keep his/her knowledge and skills relevant to the Profession up-to-date’;*
- *‘use the utmost care and diligence in discharging his/her duties to his/her principals and Clients’;*
- *‘at all times try to keep completely free of conflicts of interest and at all times shall recognise the legal and equitable rights of all parties’.*

## Education of Loss Adjusters

An education system, offered through the Australian & New Zealand Institute of Insurance & Finance (ANZIIF), a Registered Training Organisation (RTO), allows loss adjusters and anyone wishing to operate in the profession to ultimately qualify for a Diploma of Loss Adjusting. The Diploma has been developed to meet industry requirements and is accredited and internationally recognised under the Australian Qualifications Framework and has been in place for many years.

This education system is available to anyone, and is not restricted to AICLA members.

AICLA members must participate in ongoing training and education through our continuing professional development (CPD) program.

## Role of loss adjusters (and loss assessors) in the claims process

### What Role Do Loss Adjusters Play in Claims Handling?

Loss adjusters and loss assessors are there to assist people and organisations at times of loss. Loss adjusters can be engaged by a range of parties for a variety of purposes. They are professionals who are the 'bridge' between parties, generally an insurer and an insured and their objective is to establish an outcome that is fair and equitable to all parties.

Typically, a loss adjuster will be engaged to:

- examine the cause of a loss and apply the terms of the insurance policy to the cause;
- assess the amount of the loss within the specific terms of the insurance policy;
- obtain quotations for repair and replacement;
- negotiate a claim settlement that is equitable to the various parties;
- liaise with repairs, builders, contractors and others.
- manage expectations – communication, understanding and empathy;
- pursue recovery from some other party where the opportunity to do so is available; and project manage the claim to finality

### **Do Loss Adjusters Play a Role in Every Claim?**

All classes of claims are handled by loss adjusters and the monetary amount can be a few thousands to multi- million dollar losses. Some claims are assessed by people whose primary business is not loss adjusting but who are contracted by an insurer to assess the loss and in many cases undertake repairs such as a carpet layers, builders, restorers, motor repairers and others.

These persons are normally trade qualified who purport to be loss adjusters/assessors or who hold themselves out as loss adjusters despite no or superficial claims insurance and consumer law knowledge.

AICLA believes there is potential for consumers to receive incorrect, unfair or inadequate claims advice due to the lack of specific claims training by these people. For this reason, we believe there should be a minimum standard of education and training for all involved in handling and settlement of insurance claims

### **Value of Loss Adjusters to Consumers**

Loss adjusters consider that they improve consumer satisfaction and confidence by:

- Having a professionally qualified representative dealing with the claims situation;
- Providing a fair and equitable outcome in a claim settlement;
- Bringing to the claims process insurance knowledge about the principles and processes in insurance generally and in claims particularly;
- Providing policy and product knowledge of the policyholders' individual contract and coverage;
- Having knowledge of relevant law such as insurance law, consumer law, common law and the General Insurance Code of Practice;
- Providing reserving advice to help insurers with accurate claims estimates and provisioning;
- Offering project management for claims settlements, which is required as claims may be quite complicated in terms of repairing or otherwise settling;
- Having local knowledge of the situation - as insurers no longer have extensive office networks; and
- Communicating with claimants, insurers and stakeholders to reduce complaints and promote understanding.

## 3 Licensing Regime Recommendation

### Definition of Handling or Settling an Insurance Claim

AICLA believes that there should be specific definition for the handling or settling of an insurance claim within the Corporations Act, and licensing in respect of these activities be separate to the current licensing applying to financial planners, brokers and others. The licensing conditions for parties who sell a financial product should be different to the licensing conditions for individuals or companies involved in handling or settling insurance claims.

### Retail Claims or All Claims?

The licensing and regulation requirements should apply not only to retail but also to commercial claims, as without this it would mean minimum training and education standards would not apply to those appointed to handle small business or multi-million dollar claims. This would be inconsistent with the general tenet of raising standards in the settlement and handling of claims.

### Licensing Regime Proposed

AICLA believes that loss adjusters and assessors, when they are acting on behalf of an insurer, should be an Authorised Representative of these AFS licensees. Anyone who is not an Authorised Representative, and who is providing claims handling and settlement advice, should hold an AFS license.

We believe the legislation should include requirements for all licensees, employees and Authorised Representatives. These requirements should include:

- Standard course covering broad understanding of responsibilities under the Corporations Act (and regulations), Insurance Contracts Act, appropriate Code of Practice and consumer laws
- Recognition as qualified under an industry body approved training course for their specific field of operation
- Compulsory annual Continuing Professional Development training
- Membership of an appropriate professional association
- Disaster Recovery Plan
- Conflict of Interest Policy
- Professional Indemnity Insurance
- Breach Reporting System
- Privacy Policy

We believe that the supporting Regulations (or the appropriate Insurance Code of Practice) should contain specific training suitable for each major area including: 1. domestic and commercial loss adjusting and assessing, 2. motor assessing and 3. investigations. For other specialised areas of claims, it would be hard to define the appropriate minimum standards, and in these cases it should be the requirement that licensees ensure that their staff and Authorised Representatives hold the appropriate qualifications and are adequately trained and competent to engage in the claims for which they are appointed.

Specifically, in respect of loss adjusters and loss assessors, we believe that this minimum standard should be four modules from the ANZIIF Diploma of Loss Adjusting:

- LA501: Introduction to Loss Adjusting
- LA502: Loss Adjusting Practice
- LA503: Property and Casualty Loss Adjustment
- LA504: Loss Adjusting Law and Regulation

These four modules equip a person involved in claims with the skills and training required to efficiently and fairly settle a claim, including:

- Understanding of insurance and consumer laws.
- Knowledge of the requirement to provide impartial advice, and for insureds rights to receive their entitlements under the policy.
- Ability to examine and apply the insurance policy to the loss.
- Skills to plan and implement a loss investigation.
- Competency to evaluate collected information and report findings.
- Capability to manage reinstatement following a loss, including liaising with builders and other contractors.

## 4 Summary

All those involved in claims handling and settlement should have minimum training and expertise suitable for the role they perform to ensure that they are competent to deal with insureds professionally and fairly.

The regulatory regime should, as we have pointed out, apply to all classes, not only retail and domestic claims.

We believe the legislation and regulations or appropriate Code of Practices should specify minimum training and education standards for those involved in 1. domestic and commercial loss adjusting and assessing, 2. motor assessing and 3. investigations. To not specify minimum standards would leave the situation where it is today, with unqualified and inadequately trained individuals and organisations continuing to operate in the handling and settlement of claims.

We have outlined in the Licensing Regime Recommendation what we believe the legislation and regulation should contain as standards and minimum training and education requirements for those involved in claims.

Loss adjusters and assessors, when they are acting on behalf of an insurer, should be an Authorised Representative of these AFS licensees. Anyone who is not an Authorised Representative, and who is providing claims handling and settlement advice, should hold an AFS license.

Establishing minimum standards for loss adjusters and others involved in claims handling and settlement will enhance the objective of ensuring that consumers are treated fairly and efficiently.