# 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.