

ANNUAL REVIEW

INSURANCE
BROKERS

CODE
COMPLIANCE
COMMITTEE



Insurance Brokers Code of Practice Code Compliance Committee

ANNUAL REVIEW 2016–17

August 2017

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About this review

This review assesses insurance brokers' compliance with the 2014 Insurance Brokers Code of Practice and covers the work undertaken by the Insurance Brokers Code Compliance Committee during the period 1 July 2016 to 30 June 2017.

Data has been collated from monitoring the activities of the 318 insurance brokers that subscribed to the Code in 2016–17, and consists of the outcomes of an Own Motion Inquiry, the 2016 Annual Compliance Statement and investigations into alleged Code breaches.

This review also reports on the Code Compliance Committee's monitoring activities from 1 July 2016 to 30 June 2017, and shares its experience of good industry practice – as well as the initiatives of Code Subscribers – to improve standards of practice and service in the Australian insurance broking industry.

Chairperson's message

In 2016–17, the Insurance Brokers Code Compliance Committee saw positive outcomes from the previous year's focus on communicating and collaborating with Code Subscribers. Self-reports of Code breaches doubled this year, and the proportion of Code Subscribers self-reporting at least one breach increased from around three in ten to more than four in ten. We see these results as indicative of a growing culture of positive breach reporting. While some insurance brokers are reporting high numbers of Code breaches and complaints, there is marked inconsistency among Code Subscribers. As a general observation, we would expect most organisations of the same size to see and report similar numbers of breaches and complaints, whereas most Code Subscribers reported no breaches at all in 2016–17.

In the coming year, we will continue to work with individual insurance brokers and with the National Insurance Brokers Association (NIBA) to encourage all Code Subscribers to ensure that reporting is a true reflection of their performance. Insurance brokers' internal dispute resolution (IDR) was a focus of the Committee's Code compliance monitoring work this year. There was little change in the number of complaints reported by insurance brokers between 2015–16 and 2016–17: just over half of Code Subscribers reported at least one complaint this reporting year. Pleasingly, most insurance brokers are going beyond minimum legal requirements by recording and reporting complaints that are resolved on the spot, rather than limiting reporting to those complaints that take longer to resolve.

In addition to our regular collection of complaints data via the Annual Compliance Statement, this year we examined Code Subscribers' processes for receiving, resolving and learning from complaints via an Own Motion Inquiry focused on Service Standard 10 of the Code. The inquiry found that overall, Code Subscribers have accessible IDR information and processes; staff are well-trained in dispute resolution; and most organisations follow good industry practice for fair and responsive complaint handling.

In consultation with NIBA, the Committee formed an industry liaison group (the Group) to provide guidance and feedback on the Committee's compliance monitoring and investigation activities. The Group will be called upon by the Committee as part of its stakeholder and community engagement process for monitoring compliance with the Code. The focus of the Group will be the exchange of information for compliance monitoring and investigation activities.

The Committee would like to thank our Compliance Manager staff, particularly Sally Davis and Daniela Kirchlind, for their dedicated service this year. We would also like to thank NIBA and its Chief Executive Officer, Dallas Booth, as well as the many consumer advocates with whom we have engaged, for their support of our work in 2016–17. The Committee would also like to thank Stephen Lardner for his exceptional work and commitment as industry representative since inception of the Committee in 2014. We extend a warm welcome to David Duffield as the newly appointed industry representative.

At its heart, the Insurance Brokers Code of Practice is a commitment by Code Subscribers to focus on proactively improving client service. This means continuously reviewing and improving processes. Code Subscribers should be treating their breach and complaints registers not as something to simply fill out and file away, but as a valuable source of insight, learning and service improvement. We look forward to working with all stakeholders to achieve this vision in 2017–18.

Michael Gill, Chairperson
Insurance Brokers Code Compliance Committee



Year at a glance

Compliance monitoring and breach reporting

1,410	breaches of the Code self-reported by 42% (134) of insurance brokers (page 12)	↑ from 862
34	significant breaches of the Code self-reported by 15 insurance brokers (page 15)	↑ from 11
460	self-reported breaches relating to Service Standard 1 'We will comply with all relevant law' (page 14)	↑ from 253
318	self-reported breaches relating to Service Standard 5 'Buying insurance' (page 14)	↑ from 200
1,026	IDR complaints self-reported by 54% (or 173) of insurance brokers (page 18)	no change
78%	of these IDR complaints resolved within 21 days (page 21)	no change



Own Motion Inquiry on IDR Process completed (page 26)

Investigations

8	new investigations received during 2016–17 (page 27)
9	investigations finalised, including three from 2015–16. One investigation was finalised by Determination (page 30)
42	individual compliance verification audits (page 23)

Stakeholder engagement

26	stakeholder meetings (page 32)
9	industry and consumer conferences attended, including six presentations (page 32)
12	publications (page 33)

Executive Summary

The Committee had a full program of compliance monitoring, investigations and stakeholder engagement in 2016–17.

Code monitoring activities

The Committee's core compliance monitoring program is the Annual Compliance Statement (ACS), a self-assessment completed by all Code Subscribers. In 2016, 42% of insurance brokers reported at least one breach for a total of 1,410 Code breaches. Non-compliance with legal obligations accounted for the largest proportion of breaches (33%). Failure to discharge duties diligently, competently, fairly and with honesty and integrity contributed 26% of breaches.

In addition, Code Subscribers self-reported 34 significant breaches in 2016 – three times as many as in 2015. Many (41%) of these significant breaches related to the Code's general service standards on compliance with the law and professionalism. Despite these year-on-year increases in breach and significant breach numbers, self-reported IDR complaints remained at approximately the same level as in 2015.

While the increase in self-reported breaches is a welcome indication of positive breach reporting, the Committee is concerned at the high proportion of Code Subscribers that reported no Code breaches (58%) or complaints (46%). That IDR complaints remained stable despite the substantial increase in breaches also points to possible reporting gaps. The Committee will continue to encourage positive breach reporting for a true picture of performance and as a tool for continuous improvement.

A sample of 42 Code Subscribers participated in the ACS Verification Program, which validates the ACS results. Participating Code Subscribers provided detailed information about their breach and complaint monitoring and reporting processes.

In 2016–17, the Committee also conducted an Own Motion Inquiry into Code Subscribers' IDR processes. The inquiry found that staff are well-trained to handle complaints, and all organisations follow good industry practice on responsive and fair complaint handling. However, brokers are not always doing enough to make complaint processes accessible to all customers or to learn from the complaints received.

Investigations

This year, the Committee received eight new investigations and finalised three investigations from the previous period. Of the ten investigations closed during 2016–17, four involved a confirmed breach, one of which was a significant breach; five were found to be out of jurisdiction; and one was closed when no further information was received from the applicant.

Stakeholder engagement

Throughout 2016–17, the Committee met regularly with NIBA, regulators, Code Subscribers, ombudsman schemes and consumer and small business representatives. The Committee published articles in Financial Ombudsman Service Australia (FOS) and Financial and Consumer Rights Council (FCRC) publications; released a report on its Own Motion Inquiry into IDR processes; contributed to the development of a Code e-learning module; and shared 'tips of the month' with Code Subscribers.

About the Code

The 2014 Insurance Brokers Code of Practice sets standards of good industry practice for the 318 insurance brokers that have agreed to follow its standards when dealing with current and prospective individual and small business clients. The Code is owned and published by NIBA and forms an important part of the broader national consumer protection framework and financial services regulatory system.

Service standards

The Code contains 12 key service standards that apply to all insurance broking services delivered to individuals and small businesses by Code Subscribers across Australia.

Table 1: The 12 key service standards

1. We will comply with all relevant law.
2. We will transparently manage any conflicts of interest that may arise.
3. We will clearly tell you if we do not act for you.
4. We will clearly tell you about the scope of our covered services.
5. We will discharge our duties diligently, competently, fairly and with honesty and integrity.
6. We will clearly tell you how our covered services are paid for before we provide them and answer any questions you have.
7. We will handle any money received in accordance with relevant law and any agreement with you.
8. We will ensure that we and our representatives are competent and adequately trained to provide the relevant services and will maintain this competence.
9. We will respond to catastrophes and disasters in a timely, professional, practical and compassionate manner in conjunction with any industry-wide response.
10. We will ensure that we have an internal complaints and disputes handling process that meets the Code Complaints and Dispute process standards.
11. We will support NIBA in promoting the Code and make information on the Code (including how to make a complaint) and our Covered Services readily available to you.
12. We will not engage in activity or inactivity that is reasonably likely to bring the insurance broking profession into disrepute.

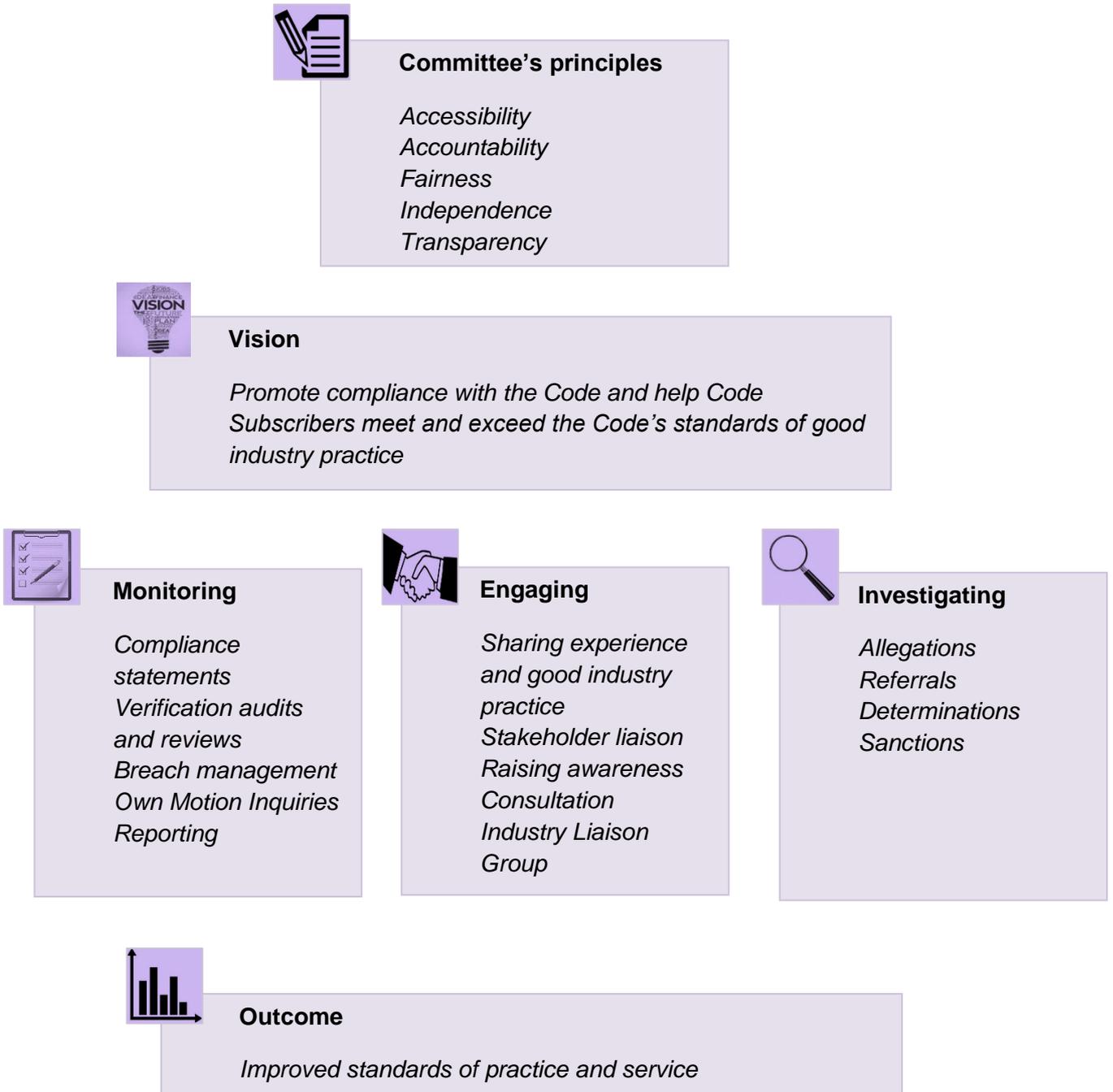
By subscribing to the Code, insurance brokers have committed to continuously improving standards of practice and service in their sector; promoting informed decision-making about their services; and acting fairly and reasonably in delivering those services.

Code Subscribers as at 30 June 2017 are listed in [Appendix A](#).

Code Compliance Committee

The Code Compliance Committee is an independent compliance monitoring body established under section 3 of the Insurance Brokers Code Compliance Committee Charter and formally approved by NIBA on 5 September 2014.

The diagram below sets out the Committee's vision and principles, along with its key functions. These key functions can be grouped into three main categories: monitoring, investigating and engaging.



Committee members

	<p>Michael Gill Independent Chairperson LLB (Sydney) FAICD Solicitor of the Supreme Court of New South Wales, Solicitor of the High Court of Australia, Solicitor and Barrister of the Supreme Court of Victoria</p> <p>Appointed: 1 January 2014 Term expires: 31 December 2018¹</p>	<p>Michael has practised at DLA Piper (Phillips Fox and other predecessors) since 1968, mainly as a specialist insurance lawyer and in management roles within the firm. Since 2008 he has been a Consultant to the firm. He was Chairman of Phillips Fox and Managing Partner of its Sydney office.</p> <p>He is recognised as one of the leading lawyers in the field. For many years he was the principal lawyer for NIBA and many of its members. He was instrumental in the drafting of the original Code of Practice. He has represented insurance brokers in professional indemnity, regulatory and compliance matters.</p> <p>Michael is also passionate about work in the not-for-profit sector. Within the firm he assists with pro bono activities in Australia and overseas and is an Ambassador for New Perimeter, which provides long-term, high-impact pro bono legal support in less developed and post-conflict countries.</p> <p>Michael was President of the International Insurance Law Association, founding Chairman of the Australian Insurance Law Association, Independent Chair of the Code Compliance Committee for the General Insurance Industry, President of the Law Council of Australia and the Law Society of NSW, inaugural Chairman of the Motor Accidents Authority, and Chairman of the Solicitors Mutual Indemnity Fund.</p>
	<p>Julia M Davis Consumer Representative BA, JD, LLM, GradDip (Law)</p> <p>Appointed: 1 January 2014 Term expires: 31 December 2018²</p>	<p>Julia is an admitted solicitor in NSW and Policy and Communication Officer at the Financial Rights Legal Centre in NSW, a community legal centre that specialises in helping consumers understand and enforce their legal rights. She has developed and managed several important initiatives for the Centre, and drafted its submissions to government inquiries and independent reviews with a particular focus on the insurance industry.</p> <p>She has vocational experience in the private sector as well as experience as a consumer advocate, having worked for several law firms in Sydney and Florida (USA). She is passionate about helping disadvantaged consumers. She is also serving on the board of the NSW peak body for community legal centres as well as on the board of the Tenants' Union NSW.</p> <p>Julia completed a Masters in Law with Distinction at the London School of Economics. Prior to this, she graduated with honours from the University of Florida in 2010, and was subsequently admitted as a lawyer in Florida, USA.</p>

¹ Final term, not eligible for re-appointment.

² Final term, not eligible for re-appointment.

	<p>David Duffield Industry Representative (incoming) FAIL, ARM, QPIB Appointed: 1 January 2017 Term expires: 31 December 2019</p>	<p>David commenced his insurance career as an insurance broker in 1973 with Price Forbes Leslie Sedgwick, which became Sedgwick and was ultimately acquired by Marsh Pty Ltd. Throughout his career, David has performed a wide variety of roles including business interruption and captive insurer specialist, drawing upon his accounting qualification; national leader for Oil Gas and Mining, Construction and Infrastructure; as well as placement director.</p> <p>David has held the role of Australian Chief Executive for both Sedgwick and Marsh and, more recently, has been Chief Client Officer for Marsh in the Pacific. He works actively with clients to understand their risk profile and design optimal risk financing and insurance programs. David also works with clients on the settlement of large or complex claims.</p> <p>He was a NIBA Director for over 15 years, completing a two-year term as President, and has chaired the Finance Committee, Marketing Committee and Conference Committee for the Association.</p> <p>With over 40 years' experience in the insurance industry, David has strong professional links and a well-established network in the insurance industry both in Australia and Europe.</p>
	<p>Stephen Lardner Industry Representative (outgoing) B.Comm, ACA, FAIM, FAICD, QPIB Appointed: 1 January 2014 Term expired: 31 December 2016</p>	<p>Stephen is a professional business manager and leader with a strong background in insurance and accounting, with widely diversified skills and business relationships in the insurance and financial services industries. He has over 30 years' experience in executive and non-executive directorships, primarily in the insurance industry. He has held directorships for numerous client businesses, and has experience as a director or advisor for various industry associations and affinity groups.</p> <p>He was a NIBA Director, completing a two-year term as President, and has chaired the Finance Committee and Conference Committee for the association.</p> <p>He has established strong professional and community links and has well-established networks in the insurance industry (underwriting and broking) in Australia.</p>
	<p>John JT Phillips Alternate Industry Representative FAIM Appointed: 1 January 2014 Term expires: 31 December 2019³</p>	<p>John is current director of J & R Phillips Services Pty Ltd and Non-Executive Director of Resilium Insurance Broking Pty Ltd, providing consultancy services to insurance brokers, claims providers and insurance underwriters.</p> <p>He has wide experience in the insurance broking industry, including having been CEO of Steadfast Group Limited for 13 years.</p>

Committee meetings

In 2016–17, the Committee formally met five times, in September and December 2016 and in February, March and June 2017. The March 2017 meeting included the alternate industry representative John JT Philips.

³ Re-appointed effective 1 January 2017, final term, not eligible for re-appointment.

Compliance Manager

FOS (Code Administrator⁴) provides Code monitoring and administration services to the Committee and NIBA by agreement. FOS has appointed a dedicated team of staff (Compliance Manager⁵) within its office to undertake that task.

Compliance Manager Staff

 <p>Sally Davis General Manager Code Compliance and Monitoring B.Comm, LLB, Grad Dip (Arts)</p> <p>Appointed: September 2015 – current</p> <hr/> <p>Sally commenced as General Manager of Code Compliance and Monitoring at FOS on 1 September 2015. Her appointment was made on the recommendation of a selection committee comprising Mr Chris Doogan, Independent Chair of the Code Compliance Monitoring Committee (Banks), Dr Sue-Anne Wallace, Independent Chair of the Code Compliance Committee (Customer Owned Banking Institutions), and Mr Shane Tregillis, Chief Ombudsman, FOS.</p> <p>Sally previously worked as Senior Manager of Systemic Issues at FOS and has worked at FOS and its predecessor schemes for over 16 years. Sally is an accredited mediator and holds a Bachelor of Commerce and a Bachelor of Laws degree from the University of Melbourne and a Graduate Diploma (Arts) from Monash University.</p> <p>Sally brings to this position extensive experience in financial services, as well as good relationships with regulators, industry and consumer groups.</p> <p>Her work as General Manager involves the oversight of four other codes of practice in the financial services industry in addition to the Insurance Brokers Code of Practice.</p>	 <p>Daniela Kirchlind Compliance Manager B.Comm, Grad Dip (Finance and Investment)</p> <p>Appointed: October 2009 – current</p> <hr/> <p>Daniela has a background in dispute resolution and broad insurance industry experience in Australia, England and Germany. Daniela previously worked as Complaints and Compliance Manager at FOS and its predecessor schemes for over 21 years.</p> <p>In addition to her Compliance Management role, she manages compliance for the Customer Owned Banking Code of Practice.</p> <p>Daniela holds a Bachelor of Commerce from the Cologne University (Germany) and a Graduate Diploma in Finance and Investment from the Australian Securities Institute Melbourne.</p>
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⁴ As per *Insurance Brokers Code Compliance Committee Administration Deed and Charter (Charter)* section 1.1 (a) (iv) the Code Administrator means FOS or such other person appointed by NIBA from time to time to act on NIBA's behalf in administering the Code.

⁵ As per *Charter* section 1.1 (a) (vii) means the person appointed by the Code Administrator to act on its behalf for the purpose of the Code Procedures.

Code monitoring activities

The Committee's Code monitoring program gives insurance brokers an effective mechanism for self-assessing their Code compliance, monitoring and reporting frameworks, while providing us with robust data on Code compliance among subscribers. In 2016–17, key Code monitoring activities were the 2016 ACS program, the ACS Verification program and the Own Motion Inquiry into IDR processes.

2016 ACS program

The ACS is a self-assessment tool that enables Code Subscribers to review their compliance with Code obligations each year. For Code Subscribers, completing the ACS is a core monitoring obligation. Collecting Code Subscribers' data via the ACS program forms part of the monitoring role of the Committee as established under section 3 of the *Code Compliance Committee Charter*.⁶

Developing and improving the 2016 ACS

The 2016 ACS was developed in consultation with NIBA and a selection of Code Subscribers to achieve a consistent compliance monitoring approach. The ACS assessed:

- how effectively Code Subscribers complied with Code obligations during the reporting year
- the robustness of subscribers' Code compliance monitoring frameworks
- how effectively Code Subscribers monitored their compliance against Code obligations
- instances of non-compliance and how they were remedied
- emerging or significant risks to Code Subscribers' compliance with Code obligations
- areas of good industry practice that could be shared with the sector.

The ACS is completed via an online portal, which most Code Subscribers see as an effective method for lodging their compliance data. To support Code Subscribers to submit their data, we provide a Frequently Asked Questions document, Information Sheet and breach lodgement sample. Almost all Code Subscribers (93%) reported that completing the 2016 ACS, including collection of the necessary data, took no more than one day.

Self-reported Code breaches

The ACS gathers distinct datasets on 'breaches' and 'significant breaches'. A **breach** is defined as a failure to comply with the obligations of the Code regarding the provision of an insurance broking service.

Just under half (42%) of participating insurance brokers self-reported one or more Code breaches in 2016, an increase compared to the previous year (32%). Slightly less than one-third (32%) of Code Subscribers reported between one and ten Code breaches.⁷ Among those who reported a breach, just 13 Code Subscribers collectively accounted for 52% (727) of the total 1,410 Code

⁶ The Insurance Brokers Code of Practice Committee Deed and Charter are available at https://www.niba.com.au/resource/NIBA_CCC_Deed_300614.pdf

⁷ See [Appendix H](#), table 19 on page 57.

breaches. One Code Subscriber reported 125 Code breaches, all of which related to compliance with relevant law (Service Standard 1). With regard to **significant breaches**, 15 Code Subscribers reported a total of 34 such breaches.

Most reported breaches were identified through quality assurance programs and internal audit processes. A small proportion (14%) were identified as a result of client complaint investigations, similar to 15% in the previous year.

Types of breach

For each of the five years to 2016, **Chart 1** identifies the percentage of that year’s self-reported Code breaches that fit within each of the four broad categories of Code obligation.

Chart 1: Self-reported breaches by Code category for calendar years 2012 to 2016

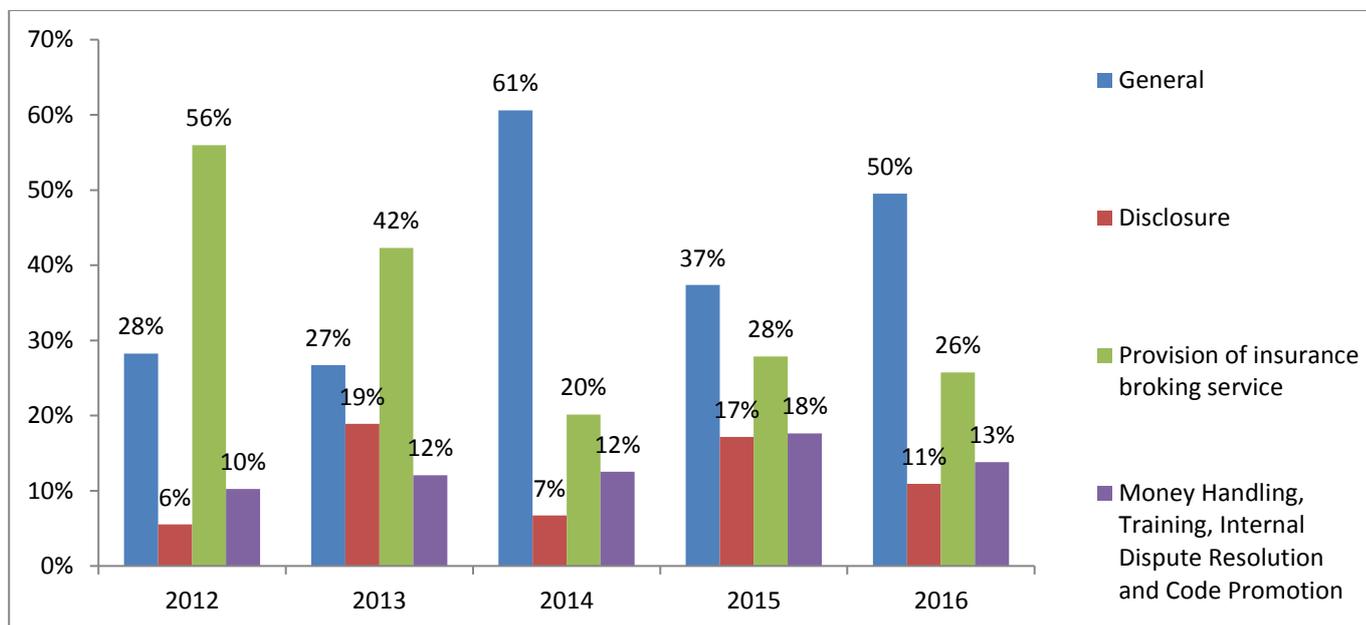


Chart 1 shows that the largest category of non-compliance in 2016 was 'General', which comprised 50% of breaches and includes compliance with relevant laws (Service Standard 1) and professionalism (Service Standard 12). A further 26% of Code breaches were within the category of 'Provision of insurance broking service', which includes Service Standards 5 ('discharge duties diligently, competently, fairly and with honesty and integrity while buying insurance'). Together, these two categories represented 76% of total Code breaches reported, an increase from 65% in 2015.

The next biggest category with 13% was 'Money Handling, Training, Internal Dispute Resolution and Code Promotion', including 8% of breaches of Service Standard 8 ('Training').

Table 2 goes into greater detail, examining areas of non-compliance by the specific Code section from 2012 to 2016.

Table 2: Self-reported breaches by Code section for calendar years 2012 to 2016

Category	Section	Standard	2012	2013	2014	2015	2016
General	Legal standards	1	3%	7%	58%	29%	33%
	Professionalism	12	25%	20%	3%	8%	17%
	<i>Sub-total General</i>		28%	27%	61%	37%	50%
Disclosure	Conflict of interest	2	2%	7%	1%	2%	1%
	Remuneration	3	1%	11%	3%	7%	4%
	Who we act for	4	2%	0%	0%	<1%	1%
	Scope of covered services	6	<1%	1%	3%	8%	5%
	<i>Sub-total Disclosure</i>		6%	19%	7%	17%	11%
Provision of insurance broking service	Buying insurance	5	54%	39%	19%	24%	23%
	Claim handling	5	2%	3%	1%	4%	3%
	Acting for insurer	5	0%	0%	0%	<1%	<1%
	Disasters	9	0%	0%	0%	0%	0%
	<i>Sub-total Provision of insurance broking service</i>		56%	42%	20%	28%	26%
Money handling, Training, IDR and Code Promotion	Money handling	7	5%	6%	4%	6%	5%
	Training	8	3%	5%	8%	8%	8%
	Dispute resolution	10	1%	1%	0%	4%	<1%
	Promotion of Code	11	1%	0%	0%	<1%	<1%
	<i>Sub-total Other</i>		10%	12%	12%	18%	13%
Total			100%	100%	100%	100%	100%

Compliance with legal obligations (Service Standard 1) was the most significant area of non-compliance in 2016, accounting for one-third (33%) of self-reported breaches. A single Code Subscriber reported 9% of these breaches. Reported breaches under this standard related to promptly providing information and documents; compliance with the *Privacy Act 1988*; and compliance with the 14-day timeframe requirement in section 58(2) of the *Insurance Contracts Act 1984*.

Service Standard 5, which requires insurance brokers to discharge their duties 'diligently, competently, fairly and with honesty and integrity', also accounted for a large share of self-reported breaches (26%). This included 23% relating to buying insurance and 3% relating to claims handling.

Other key breach areas concerned professionalism (Service Standard 12) and training (Service Standard 8). Combined, these accounted for 25% of self-reported breaches in 2016.

For a full comparative analysis of all self-reported Code breach data from 2012 to 2016, see [Appendix B](#) and [Appendix C](#). For examples of specific self-reported Code breaches and their remediation, see [Appendix D](#).

Culture and framework of positive breach reporting

Most Code Subscribers (58%) reported no breaches of the Code and 46% reported no complaints in 2016 (see [Appendix H](#)). **Table 3** shows self-reported breach numbers by organisation size in 2016.

Table 3: Self-reported breaches by size of organisation for calendar year 2016

Number of self-reported Code breaches	Micro organisation	Small organisation	Medium organisation	Large organisation	TOTAL
Nil	67%	43%	31%	48%	58%
1 to 10	28%	46%	43%	28%	32%
11 to 20	4%	0%	16%	12%	6%
21 to 50	0%	7%	10%	0%	3%
51 to 100	1%	0%	0%	12%	2%
Over 100	0%	4%	0%	0%	<1%
	100%	100%	100%	100%	
<i>Mean number of self-reported breaches 2016</i>	<i>2.3</i>	<i>8.6</i>	<i>7.6</i>	<i>11.7</i>	<i>4.4</i>
<i>Mean number of self-reported breaches 2015</i>	<i>2.3</i>	<i>1.9</i>	<i>4.4</i>	<i>8.8</i>	<i>2.7</i>

There appears to be no consistent relationship between the size of the business and the culture and framework of positive breach reporting – both large and micro organisations were more likely to report nil breaches. However, the Committee notes the variability in breach reporting within each size category, with organisations of the same size reporting widely varying breach numbers. For example, almost half (48%) of large organisations reported no breaches in 2016, well below the average of 11.7 for organisations of that size.

The Committee will continue to assist Code Subscribers with their compliance processes and encourage positive breach and complaints monitoring and reporting to ensure that they are a true reflection of Code Subscribers' performance.

Self-reported significant breaches

As well as providing the above breach data, Code Subscribers also report on 'significant breaches' in the ACS. A significant breach of Code obligations is more serious than other breaches, as determined by reference to a number of factors including:

- similar breaches of this nature that have occurred within the Code Subscriber's organisation
- the number of clients affected
- the adequacy of organisational arrangements to ensure compliance with the Code
- the extent of detriment to clients
- remedial actions and costs incurred
- the duration of the breach.

The Committee has been collecting significant breach data from Code Subscribers via its ACS program since 2012. The nature and extent of significant breaches is an important indicator of Code compliance as, by definition, these breaches have the most impact on clients. Often these breaches, together with remedial actions taken by Code Subscribers, have been previously reported to the Australian Securities and Investments Commission (ASIC). The role of the Committee is not to duplicate this regulatory action but to work with Code Subscribers to ensure they comply with relevant Code obligations.

In 2016, 34 significant breaches were reported by 15 Code Subscribers. This was a threefold increase compared to the previous year, with 11 significant breaches reported in 2015.

Most of the significant breaches in 2016 related to the category 'General', with 6 significant breaches recorded against Service Standard 1 (Legal standards) and 8 breaches recorded against Service Standard 12 (Professionalism). The remaining 20 significant breaches were quite evenly spread among each of the remaining three Code categories, as shown in **Table 4**.

Table 4: Self-reported significant breaches by Code section for calendar years 2013 to 2016

Category	Section	Standard	2013	2014	2015	2016
General	<i>Legal standards</i>	1	3	3	2	6
	<i>Professionalism</i>	12	-	-	1	8
Disclosure	<i>Conflict of interest</i>	2	-	-	-	-
	<i>Remuneration</i>	3	-	-	1	3
	<i>Who we act for</i>	4	-	1	-	3
	<i>Scope of covered services</i>	6	-	-	1	-
Provision of insurance broking service	<i>Buying insurance</i>	5	-	1	2	3
	<i>Claim handling</i>	5	-	-	-	3
	<i>Acting for insurer</i>	5	-	-	1	-
	<i>Disasters</i>	9	-	-	-	-
Money handling, Training, IDR and Code Promotion	<i>Money handling</i>	7	1	-	1	5
	<i>Training</i>	8	1	-	1	3
	<i>Dispute resolution</i>	10	-	-	-	-
	<i>Promotion of Code</i>	11	-	-	1	-
Total			5	5	11	34

All Code Subscribers who self-report significant Code breaches are automatically included in the Verification Program. Organisations are individually contacted by telephone to discuss what remedial action has been undertaken to address all Code breaches. [Appendix E](#) details these significant breaches, including the status of remedial actions.

Remedial actions taken typically included a combination of:

- rectifying the error, for example, by providing the correct information or updating the client's policy
- providing reminders or additional training to staff, or dismissing staff in cases of serious misconduct
- reviewing and updating procedures
- developing new system controls to detect or prevent re-occurrence
- updating systems to automate required processes
- providing financial compensation, reimbursement or refunds to the client
- apologising to clients
- communicating the breach to senior management, boards and ASIC.

Code Subscribers' compliance initiatives

Code Subscribers reported the following regular activities to improve compliance with Code obligations:

- regular reviews of office procedures and manuals and templates, including websites and IDR processes and checklists
- ongoing training, in particular of new staff, including audit of files
- regular reporting and handling of compliance issues by dedicated management.

In particular, Code Subscribers noted ongoing regular discussions in staff meetings and sales meetings regarding Code issues, regular email reminders of reporting obligations, and a change in team culture to identify mistakes and, from this, learn how to improve processes. A few Code Subscribers noted that all staff dealing with clients are required to sign off a monthly declaration about any complaints or Code breaches. The following quotes from Code Subscribers' ACSs illustrate some of these approaches.

Our recorded staff meetings are an open forum and any mention of possible exposure from internal or outside our organisation are discussed. Therefore we are all more aware of any possible outcomes from clients not understanding what they have purchased.

Promotion of the Code internally and externally has improved the overall general awareness of our obligations among our staff. We discuss any issues that arise at our monthly team meeting and share the learning. As a consequence, staff have a better understanding of what issues should be reported. I believe this has also improved our focus on client service delivery (i.e. to avoid having to discuss at the meetings) which I anticipate will lead to greater customer satisfaction.

We have continued to train and reinforce in our advisors the importance of anticipating the needs of our clients and keeping our clients regularly informed of the status of their insurance, even if there was not much progress to report. It is our experience that always keeping the clients in the loop of communication and responding promptly to their request will almost certainly eliminate any chance of complaint or dispute.

We are seeking more client review and are implementing a system where we prompt the client to feedback on our work. It is a similar process to survey monkey, a quick 3-4 question review attached to claims or insurance products. Personal Client contact is also promoted as this gives you an instantaneous indicator of how your broker/client relationship is travelling. Our product training also promotes our professionalism when dealing with clients.

IDR complaints

The 2016 ACS also collected data about Code Subscribers' IDR. The Committee used this information to assess Code Subscribers' compliance with the IDR obligations set out in Service Standard 10, which requires Code Subscribers to have an internal complaints and disputes handling process that meets a number of specific standards. **Table 5** identifies the number of complaints self-reported by size of organisation.

Table 5: Self-reported IDR complaints by size of organisation

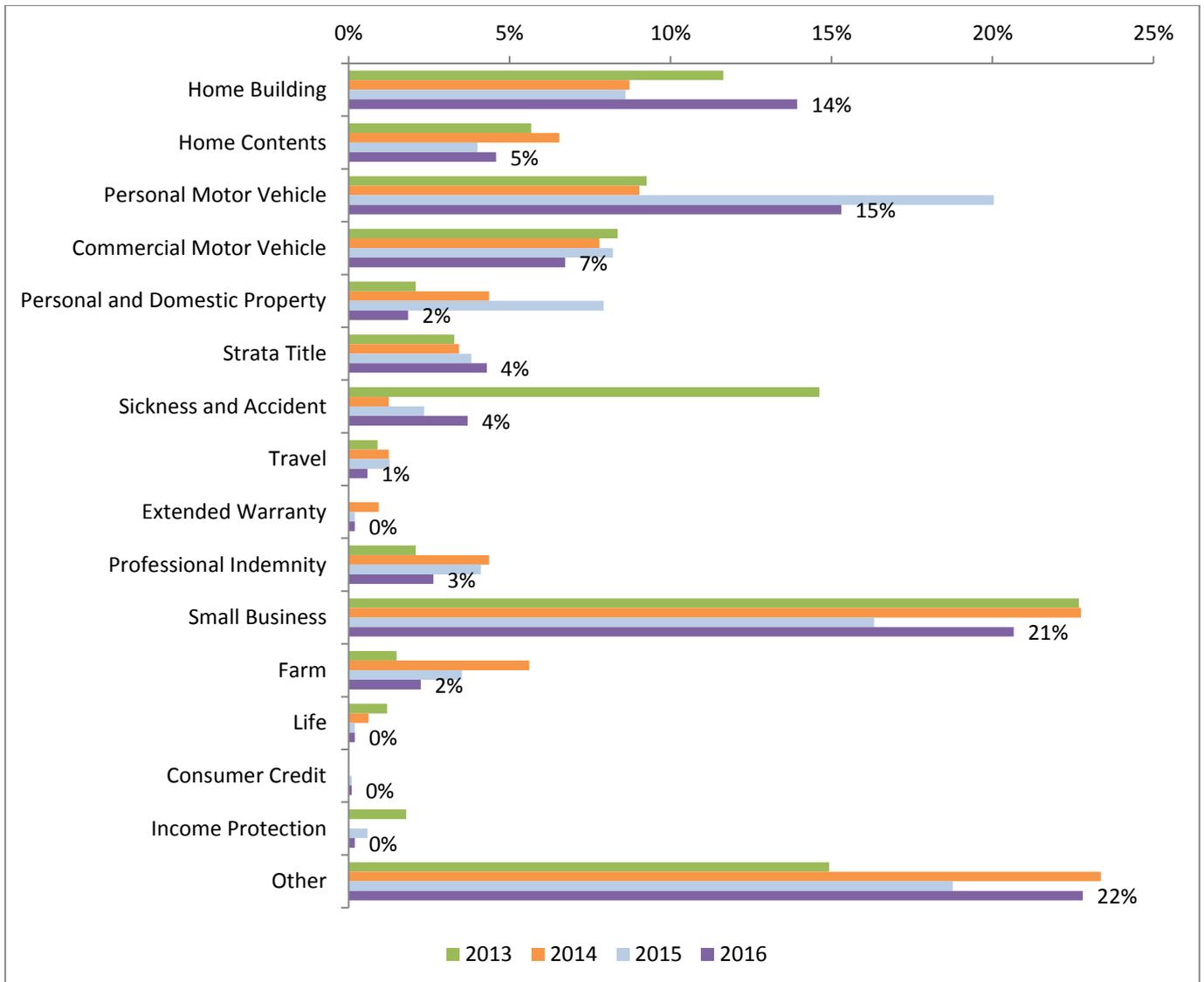
Number of self-reported IDR complaints	Micro organisation	Small organisation	Medium organisation	Large organisation	Total
Nil	55%	41%	17%	32%	46%
1 to 10	43%	44%	73%	20%	46%
11 to 20	1%	9%	10%	36%	6%
21 to 50	<1%	3%	0%	8%	1%
51 to 100	0%	3%	0%	4%	1%
Over 100	0%	0%	0%	0%	0%
	100%	100%	100%	100%	
Mean number of complaints 2016	1.5	6.6	4.2	12.4	3.2
<i>Mean number of complaints 2015</i>	<i>2.2</i>	<i>3.2</i>	<i>6.4</i>	<i>14.2</i>	<i>3.2</i>

Just over half (54%) of Code Subscribers self-reported a total of 1,026 complaints handled through their IDR process, similar to the 1,023 complaints self-reported by 52% of Code Subscribers in 2015.

Complaint service/product areas

Chart 2 shows complaints by the product or service they concerned, covering the four years to 2016.

Chart 2: Percentage of self-reported IDR complaints by service/product involved for calendar years 2013 to 2016



Combined, complaints relating to personal motor vehicles (15%) and commercial motor vehicles (7%) made up just over one-fifth of complaints in 2016. Small business-related complaints increased from 16% in 2015 to 21% in 2016, becoming the largest single complaint category. Home building (14%) and home contents (5%) together accounted for 19% of complaints in 2016, an increase from 13% in 2015.

Disappointingly, 22% of complaints were not specifically categorised by product/service as per the list provided by the Committee, a deterioration compared to 19% uncategorised in 2015. Comments provided by Code Subscribers identified the following products as inclusions in the 'other' category: commercial building, Public & Product liability, Owner builder and construction legal liability, Workers compensation, Directors & Officers, Group Personal & Accident scheme,

Farm motor vehicle policy, Heavy motor vehicle, Bloodstock, Business risk, Machinery breakdown, Business Pack, Contract Works, Marine, Pleasure Craft, Expat Medical, Strata, Wholesale and Aviation.

To assist Code Subscribers with the effective completion of the ACS, the Committee published information and Question and Answer Sheets prior to publication of the Statement. The Committee is also developing a webinar to clarify any issues and improve the integrity of the self-reported breach and complaints data.

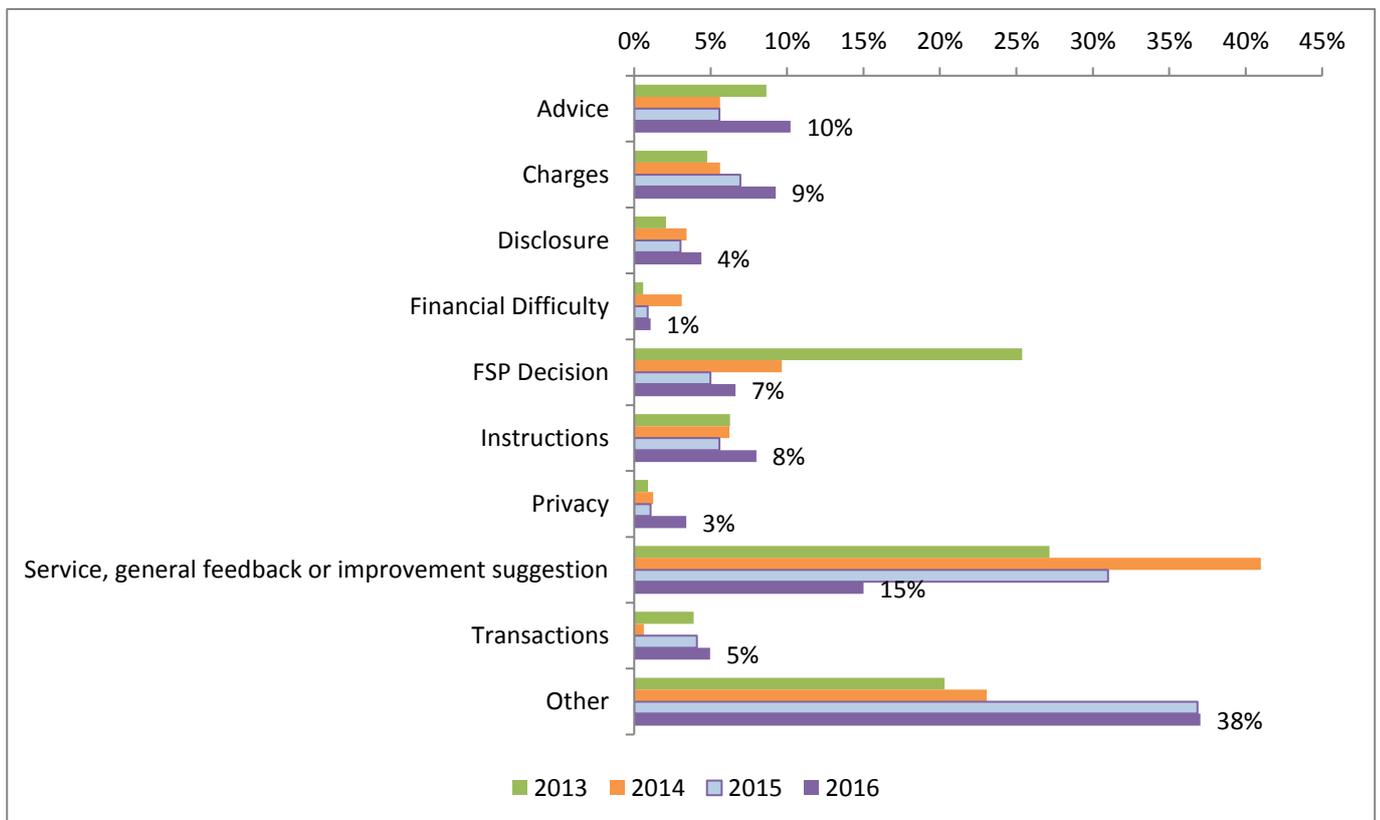
Complaint issues

Chart 3 shows a breakdown of complaints by issue for 2016 and the previous three years.

Service issues, including general feedback and improvement suggestions, comprised 15% of complaints, reflecting the high number of Code breaches reported for Service Standard 5 on the general discharge of services. This was nevertheless a marked decrease from 31% in 2015.

Complaint issues were not identified for 38% of complaints, same as in 2015. Explanations provided for the ‘other’ category included claim issues (claim denied, claim service, valuation of claim), refund issues, service issues and professionalism. Therefore, most of these complaints could also be categorised as service issues, again reflecting the high number of Code breaches reported for Service Standard 12 regarding professionalism.

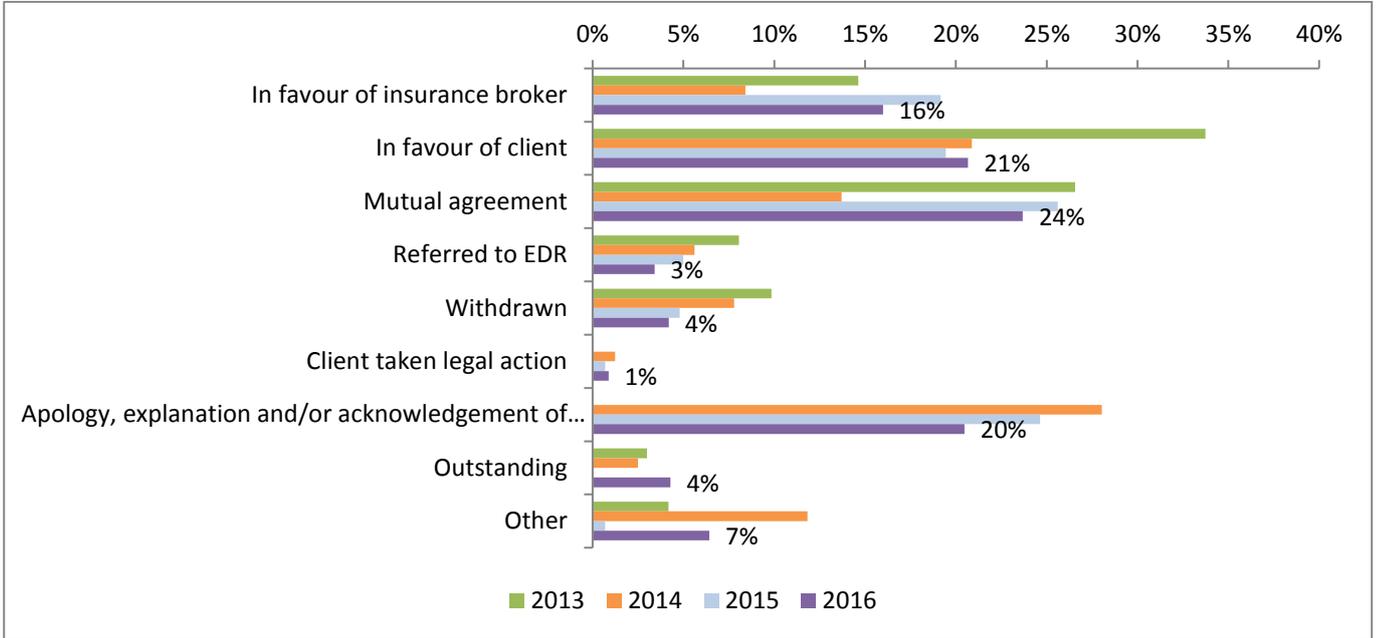
Chart 3: Percentage of self-reported IDR complaints by issue for calendar years 2013 to 2016



Complaint outcomes and resolution timeframes

The ACS also collected information about how quickly and in what way insurance brokers resolved complaints. **Chart 4** shows complaints by outcome over four years to 2016.

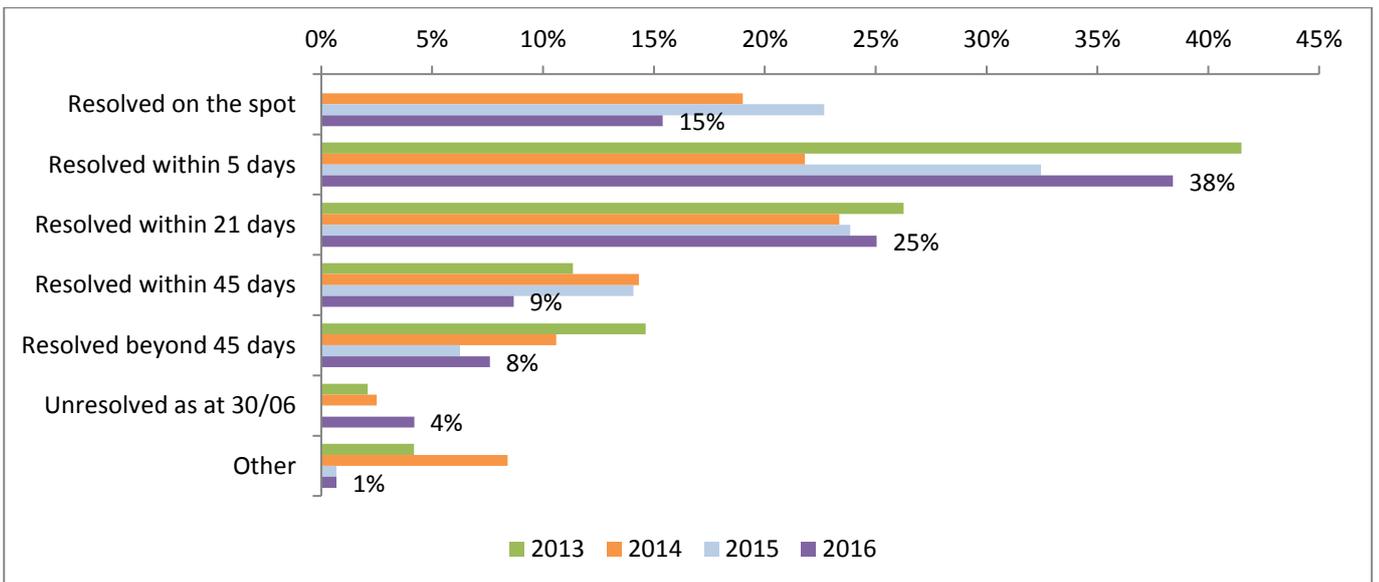
Chart 4: Percentage of self-reported IDR complaints by outcome for calendar years 2013 to 2016



In 2016, one in four complaints (24%) were resolved by mutual agreement, similar to 2015. Complaints were more likely to be resolved in favour of the client (21%) than the insurance broker (16%). One-fifth of complaints (20%) were resolved as an apology, explanation and/or acknowledgement of feedback.

Chart 5 breaks down complaints by time taken to resolve them.

Chart 5: Percentage of self-reported IDR complaints by resolution time for calendar years 2013 to 2016



In 2016, the large majority of complaints (78%) were resolved within 21 days, similar to 2015. While Code Subscribers resolved most client complaints within 45 days, as required, 8% of complaints took longer than this to resolve. Code Subscribers cited a variety of reasons for slow resolution of these complaints, including:

- complainant non-response or delays in provision of information or documentation
- third party involvement and associated communication delays
- complaint complexity
- legal action or complaint escalation to FOS.

Complaints ‘resolved on the spot’

In addition to complaints as defined in ASIC Regulatory Guide 165.81 (RG 165)⁸, the Committee also sought information from insurance brokers regarding complaints ‘resolved on the spot’.

It is pleasing to note that over 85% of insurance brokers confirmed that they do record complaints that are resolved ‘on the spot’. This exceeds the legislative reporting requirement to record complaints that are not resolved within five business days.

Table 6 shows how many organisations of each size record complaints ‘resolved on the spot’. There appears to be no difference based on the size of organisation.

Table 6: Recording of IDR complaints ‘resolved on the spot’ by size of organisation

<i>Size of organisation</i>	<i>Do you record complaints ‘resolved on the spot’?</i>	
	<i>No</i>	<i>Yes</i>
Micro organisation	16% ⁹	84%
Small organisation	4%	96%
Medium organisation	6%	94%
Large organisation	17%	83%

Culture and framework of positive complaints reporting

While Code breaches will not always generate complaints, an association between trends in self-reported breaches and IDR complaints is to be expected. In that regard, the Committee is concerned to note that despite an increase of more than 60% in self-reported breaches between 2015 and 2016, there was no corresponding increase in self-reported complaints. This may suggest that some Code Subscribers are not recording and reporting on all IDR complaints received – a matter that the Committee investigated further as part of its ACS Verification program (see discussion on page 23).

⁸ As per RG 165.81, a complaint is an expression of dissatisfaction regarding an insurance broking service where a response is explicitly or implicitly expected and has not been resolved to the customers satisfaction within five business days (except hardship cases where all instances are to be included).

⁹ Percentage shown as percentage of organisation size category.

Effectively handling clients' complaints in a professional and timely manner – including analysing their root causes – is important to maintaining a high standard of competency and professionalism in providing insurance broking services. Most Code Subscribers provided valuable comments in addition to data on the number of complaints. However, the Committee is concerned about the high number of complaints for which the product/service (23%) or issue (37%) involved was recorded under the category 'other' without any further specific information about the root cause of the problem.

The Committee focused on improving the quality of information recorded and how this information is reported, monitored and analysed as part of its Own Motion Inquiry on IDR (see page 26).

For a full comparative analysis table of all self-reported complaints data from 2012 to 2016, see [Appendix F](#) and [Appendix G](#).

ACS Verification Program

In addition to the ACS program, the Committee conducts an ACS Verification program. This is designed to validate Code Subscribers' compliance programs, investigating how effectively they identify, report and remedy breaches of the Code. Participating Code Subscribers receive specific feedback on possible areas for improvement and a benchmarking document to compare their performance to other organisations of the same size.

Objectives and conduct

The objectives of the 2016 ACS Verification Program were to:

- discuss any specific non-compliance issues that were reported in the 2016 ACS
- assist the Committee to understand how Code Subscribers manage and monitor their compliance with the Code
- provide Code Subscribers for the first time with comparative data to benchmark their own performance against organisations of the same size
- share examples of good industry practice.

The program was conducted throughout April and May 2017 via 15–30 minute teleconferences with each participating Code Subscriber.

Participants

This year, we selected 42 Code Subscribers to participate in the ACS Verification program. The selection included all large Code Subscribers, all Code Subscribers reporting significant Code breaches and a selection of other organisation sizes, as shown in **Table 7**.

Table 7: Size and location of participating organisations

	NSW	Qld	SA	Tas	Vic	WA	Total
Micro organisations	3	1			2	3	9
Small organisations		1	1		1	1	4
Medium organisations	2	1		1			4
Large organisations	8	3	1		9	4	25
Total	13	6	2	1	12	8	42

Findings

Two-thirds of the participants in the program reported breaches of the Code and one-third reported significant breaches of the Code. Of those participants that reported significant breaches of the Code, three reported that the significant breach related to the conduct of an authorised representative (AR), an AR employee or a third party service provider. Five participants reported nil breaches of the Code.

Identifying breaches

To identify Code breaches, participants use methods such as periodic quality assurance reviews, random file 'spot checks', and monthly, quarterly or annual internal audits, including multi-tiered internal audit programs. Participants also conduct on-site or branch audits and peer-to-peer file reviews, as well as external audits, staff compliance questionnaires and ad hoc 'focus area audits'.

Many participants reported that Code breaches tend to be self-reported by the relevant broker, often due to higher Code awareness in the organisation. Staff and ARs complete Code training on induction, generally online. Code breaches are also identified following monthly compliance email reminders, and via regular compliance checklists and Code breach forms on the intranet.

Recording and using breaches

All participants record breaches with a central breach register, typically using spreadsheets, electronic databases, SharePoint or other software programs that help to ensure consistent breach reporting, particularly in larger organisations.

In large organisations, the breach register is generally monitored by a designated compliance team, while in medium and smaller organisations, this function generally rests with the managing director or designated complaints or compliance officers. One participant was updating its register so that any employee could enter potential breaches for review by the compliance team.

As well as providing remedial training to individual staff, participants use Code breaches to identify broader training and documentation requirements.

Promoting the Code

Code Subscribers are required to promote the Code and make information about it readily available to clients. Pleasingly, most participants reported that they provide links to the Code on both their intranets and client websites, and reference the Code in their Financial Services Guides (FSG).

Receiving and handling complaints

Most participants reported that they make complaint contact details and information about the IDR process available to clients via the company website, in the FSG and in client engagement packs.

Participants provide induction and ongoing IDR training to both staff and ARs. Participants generally reported having comprehensive, documented complaint handling policies readily available to staff and ARs. One participant also provides complaint handling tips and suggested dialogue on its intranet.

Participants generally require that complaints are acknowledged on receipt, and escalated when they cannot be resolved by the individual broker. One participant recently amended its process so that the client is given detailed information about the entire complaints process in the first written response. At the end of the complaint review, most participants provide a final written response with contact information for the relevant external dispute resolution (EDR) scheme. Some larger participants also reported that designated compliance staff and managers provide ad hoc complaint handling advice to other staff.

Recording and using complaints

All participants record complaints in a central complaints register, which is often in a central location with the breach register. Most participants confirmed that when analysing a complaint, they consider whether it involves a Code breach. To facilitate this, one participant references the 12 service standards on the complaint register. Some participants reported that all staff can access the complaints register directly, while other participants provide standard complaint forms or a complaint inbox. One participant uses monthly emails to remind staff to report complaints and discusses complaints received in staff meetings.

Four participants reported receiving nil complaints. In itself, this does not necessarily suggest inaccurate reporting or an inadequate complaints handling process. For example, one participant reported that the Code standards are built in to its everyday business practices and another referred to the small size of the organisation, and long term relationships with clients, as enabling sufficient oversight to avoid any complaint issues arising.

However, some participant responses did indicate problems with complaint reporting. One participant reported that it does not necessarily complaints that should have been lodged with the insurer. Some participants do not require that every complaint or expression of dissatisfaction is entered on the register.

Service Standard 10 defines a complaint as '*...an expression of dissatisfaction... where a response or resolution is explicitly or implicitly expected*'. The Committee expects Code Subscribers to record and handled all expressions of dissatisfaction as complaints. Complaints relating to an insurer or the insurance claims process should also be recorded, as they may reflect trends that should be addressed.

Several participants reported undertaking a risk analysis of complaint trends and that complaint data is also used in other ways, for example, to identify where there may be a gap in staff knowledge and where additional training may be required.

Own Motion Inquiry: IDR Process

During 2016–17, the Committee undertook an Own Motion Inquiry (inquiry) to investigate how insurance brokers receive, respond to and learn from complaints. The inquiry focused on insurance brokers' obligations under Service Standard 10, through which insurance brokers promise clients that they have established an internal complaints and disputes handling process that meets the Code Complaints and Dispute Resolution process standards.

These standards require that the complaints and disputes handling process meets the general standards, such as ASIC Regulatory Guide RG 165, and contains documented steps for resolving a complaint from start to finish. This includes the referral of any unresolved dispute to an ASIC-approved EDR provider and the reporting, at any stage of the process, of potential Code breaches.

Access and complaint handling

Overall, the inquiry found that insurance brokers have accessible and visible IDR information and that organisations have a good understanding of the importance of having clear, written IDR procedures. Staff across organisations of all sizes are well-trained in complaint handling. However, IDR processes do not always address the needs of client who require assistance to access the IDR process due to a disability or language barrier.

All organisations follow good industry practice regarding responsive and fair complaint handling, and privacy and confidentiality requirements are generally observed. The inquiry identified areas for improvement regarding the handling of complaints against individual employees and the expansion of IDR processes to include mediation and adjudication.

Recording and monitoring

The inquiry found that most organisations have well-developed systems for recording and monitoring complaints. Where an organisation engages third party service providers, these providers should be included in the insurance broker's IDR process.

In its recommendations, the Committee acknowledged that there is no one-size-fits-all solution, and that finance and staff resourcing place constraints on smaller organisations. At the same time, larger organisations must ensure that commercial decisions to settle complaints do not result in a lack of proper root cause analysis, as this may jeopardise the accuracy of the complaint data.

Regular education and training of all staff – including contractors, third party service providers, agents and ARs – appears to be key to effective IDR. This education should include a learning and development process following the finalisation of a complaint to add future value and benefit the organisation. While no complaint is too small to be recognised, it has to be recorded and reported in a meaningful way. This enables the organisation to learn from the complaint, improving processes and developing and maintaining both client and public confidence.

A copy of the [report](#)¹⁰ of this inquiry, including its recommendations, can be downloaded from the FOS website.

¹⁰ See <http://www.fos.org.au/custom/files/docs/insurance-brokers-code-compliance-committee-own-motion-inquiry-internal-dispute-resolution-process.pdf>

Investigations

The Code empowers the Committee to investigate and determine any complaint alleging that an insurance broker has breached the Code. The Committee can also initiate its own investigations into Code breaches. These investigations aim to identify the cause of alleged Code breaches; whether the complaint indicates broader compliance issues; and the effectiveness of Code Subscribers' remedial actions to minimise the impact of breaches on clients.

While the Committee cannot consider claims for compensation and loss, we can initiate Code investigations without needing a complaint to act as a trigger. These Committee-initiated investigations are mainly used to identify and assess:

- the presence of non-compliant behaviour that may not have been identified by the Code Subscriber's internal compliance monitoring systems or ACS
- whether non-compliant behaviour identified through complaint investigations is systemic, either within a Code Subscriber or across the sector in general, and
- emerging Code compliance risks that may affect a number of Code Subscribers and their clients.

Following a review of an alleged Code breach, the Committee expects Code Subscribers to:

- positively engage with the Committee
- thoroughly review the incident to assess if it constitutes a breach of the Code
- report the breach in their breach register (if a breach of the Code has occurred)
- report the breach to executive management
- identify all clients potentially affected by the events
- assess if the breach is systemic and/or significant
- take remedial action to address the cause of non-compliance
- review and enhance processes and procedures, and
- train staff.

Case work

In 2016–17 the Committee received eight new referrals. Referrals mainly come through the FOS EDR process or through its systemic issue review (SI). The subsequent investigations are summarised below according to the relevant service standards.

Table 8: New investigations registered in 2016–17

Service Standard 10 – Complaints handling	Issue: After an investigation, ASIC banned a former director from an insurance broker from providing financial services for seven years. ASIC found that the former director engaged in misleading and deceptive conduct in relation to business insurance. Specifically, the director altered the insurance policies of clients without their instruction, and misled clients as to the level of cover held and the fees for service he would charge.
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	<p>According to an initial statement received from the insurance broker, the conduct involved 74 incidents, and it cost the insurance broker \$13,000 to refund and/or place insurance cover for each client. The insurance broker did not self-report any breaches or complaints in its ACS for the period in which these incidents occurred.</p> <p>Outcome: The matter has been discussed with the insurance broker and is currently being assessed.</p> <p>Status: Open – significant Code breach.</p>
<p>Service Standard 12 – Professionalism</p>	<p>Issue: The issue, which was referred to the Committee by NIBA, concerned the alleged deceptive and misleading conduct of an individual. This person changed his employment as an AR from one insurance broker to another broker, but appeared to continue to pursue former clients without providing them with clear information the capacity in which he was acting. It is also alleged that he falsified documents to obtain client authorisation forms.</p> <p>Outcome: Following discussion with NIBA and the Committee, it was agreed that matters concerning business relationships between insurance brokers are not appropriate for the Committee to deal with.</p> <p>Status: Closed – outside jurisdiction.</p>
<p>Service Standard 10 – Complaints handling</p>	<p>Issue: The issue concerned the insurance broker’s handling of the applicant’s complaint. The applicant said that after receiving an initial acknowledgement of his complaint concerning the amount of the applicable excess to a claim, he received no further response from the insurance broker for over six months, despite his various follow-up requests.</p> <p>The applicant subsequently lodged a complaint with FOS, which was closed by conciliation in favour of the applicant. Because of the inadequate response time during the IDR process, the matter was referred to the Code team.</p> <p>Outcome: As the insurance broker confirmed a Code breach and the Committee was satisfied with the remedial action undertaken by the insurance broker, there was no further investigation.</p> <p>Status: Closed – insurance broker confirmed Code breach.</p>
<p>Service Standard 4 – Scope of covered services</p>	<p>Issue: The applicant alleged breaches of both the General Insurance Code of Practice and the Insurance Brokers Code of Practice. The applicant had coverage for his personal belongings within a self-storage shed. The claim has taken over six months and is still being assessed. The applicant has a current ongoing dispute with FOS. His allegations concerning the insurance broker primarily relate to the insurance broker not informing him of the extent of his coverage.</p>

	<p>Outcome: The Committee considered the matter to be outside its Terms of Reference.</p> <p>Status: Closed – outside jurisdiction. Matter is being investigated under the General Insurance Code of Practice.</p>
<p>Service Standard 12 – Professionalism</p>	<p>Issue: The breach was addressed as a referral of a complaint from FOS and FOS SI investigation.</p> <p>FOS SI concluded that there was a definite systemic issue in relation to the insurance broker misleading clients by setting out in the policy schedule a sum insured that did not accurately reflect the market value of the insured vehicle. There were 76 clients affected by the misleading information over a three year period.</p> <p>Outcome: As the insurance broker self-reported a significant Code breach and the Committee was satisfied with the remedial action undertaken, there was no further investigation.</p> <p>Status: Closed – insurance broker confirmed significant Code breach.</p>
<p>Service Standard 5 – Buying insurance</p>	<p>Issue: The applicant was a partner in a partnership that carried on a transport business. The insurance broker arranged various insurance policies on behalf of the partnership.</p> <p>The applicant stated that the insurance broker breached its obligations to her by transferring the partnership’s insurance policies into the name of a separate business (carried on by her former partner) without her consent.</p> <p>The applicant sought compensation from the insurance broker for various financial and non-financial losses suffered as a result of its actions. In particular, the applicant stated she incurred costs in taking out replacement insurance for her business and was denied the benefit of a settlement for a claim made under the original policies.</p> <p>The matter was determined by FOS, including the view that the insurance broker failed to comply with the standards expected of a broker in the circumstances of the applicant.</p> <p>Outcome: As the insurance broker self-reported a Code breach and the Committee was satisfied with the remedial action undertaken by the insurance broker, there was no further investigation.</p> <p>Status: Closed – insurance broker confirmed Code breach.</p>
<p>Service Standard 1 – Comply with law</p>	<p>Issue: The insurance broker appeared to be acting as a debt collector for an insurer in respect of money owed to it for a claim that was covered under a customer’s policy. This might contravene financial hardship standards to protect persons being pursued for a debt or requirements of the Australian Competition and Consumer Commission (ACCC) and ASIC <i>Debt collection guideline for collectors and creditors</i>.</p>

	<p>Outcome: During its review, the Committee noted that in this instance the insurance broker acted purely as an agent for the insurer against a third party to the insurance contract. Accordingly the Committee considered the concerns were more appropriately reviewed under the General Insurance Code of Practice.</p> <p>Status: Closed – outside jurisdiction.</p>
<p>Service Standard 5 – Claims handling</p>	<p>Issue: The dispute concerned a claim for a business insurance policy following a fire at the applicant’s restaurant. The insurance broker rejected liability on the grounds that the claim was fraudulent and that the applicant had breached his duty of utmost good faith. FOS issued a determination in favour of the applicant, but did not include his claim for business interruption as it was outside FOS Terms of Reference.</p> <p>The applicant alleged that he was told by the insurance broker that the business interruption claim would be paid out once FOS determined in favour of the consumer. However, this did not occur. The consumer therefore alleged misleading conduct by the insurance broker.</p> <p>Outcome: The matter was brought to the Code team by a third party, who did not provide the requested privacy authority or additional details.</p> <p>Status: Closed – no further details or privacy authority received from the applicant.</p>

In 2016–17 the Committee finalised three investigations that were received in the previous 2015–16 period and remained open as at 30 June 2016. These are summarised below according to the relevant service standards.

Table 9: Earlier investigations finalised in 2016–17

<p>Service Standard 5 – Buying insurance</p>	<p>Issue: The dispute concerned a claim for damage to an unregistered motor vehicle that was being test driven by an employee of the applicant. The vehicle was a special replica built by the applicant's company. The insurance broker denied the claim on the grounds that the policy did not cover the circumstances of the loss and that the applicant failed to disclose that their business included the manufacture and testing of purpose-built vehicles. The insurance broker arranged the policy and the applicants alleged that the broker was negligent in that it did not arrange appropriate cover to meet their needs.</p> <p>In its investigation, the Committee found that the insurance broker did not have adequate file notes to substantiate its discussions with the applicant.</p> <p>Outcome: The Committee issued a determination, stating that:</p> <ul style="list-style-type: none"> • Clear, accurate and up-to-date records and file notes of communications with a client about the client’s objectives, financial situation and needs as well as the client’s disclosures to the
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	<p>insurance broker and the subject matter of the advice sought are central to the obligation in Service Standard 5.</p> <ul style="list-style-type: none"> • In the absence of such records, a diligent and competent broker would be unable to objectively and reliably demonstrate how it reached the conclusions underpinning its Personal Advisory Service to its client. • While a broker's overall management of its relationship with a client attracts the obligations of Service Standard 5, the Committee's view is that there are individual elements within that relationship (such as adequate file notes and records) that equally attract those obligations in their own right. <p>Status: Closed – Committee issued a determination confirming a Code breach.</p>
<p>Service Standard 5 – Claims handling</p> <p>Service Standard 10 –Complaints handling</p>	<p>Issue: The applicant lodged a claim for a lost mobile phone. The insurance broker denied the claim on the basis the loss was excluded under the policy as it could not be attributed to a known or identifiable event. After the applicant lodged a dispute with FOS, the insurance broker accepted the claim via its IDR process and offered an ex-gratia payment to replace the phone. The insurance broker then chose not to renew the policy or offer the applicant other insurance now or in future on the basis that they were a 'high risk'.</p> <p>Outcome: During its review, the Committee noted that in this instance the insurance broker acted purely as an agent for the insurer. Accordingly the Committee considered the concerns were more appropriately reviewed under the General Insurance Code of Practice.</p> <p>Status: Closed – outside jurisdiction.</p>
<p>Service Standard 1 – Comply with law</p>	<p>Issue: The insurance broker appeared to be acting as a debt collector for the insurer in respect of money owed to it for a claim that was covered under a customer's policy. This might contravene financial hardship standards to protect persons being pursued for a debt or requirement by the ACCC and ASIC <i>Debt collection guideline for collectors and creditors</i>.</p> <p>Outcome: During its review, the Committee noted that in this instance the insurance broker acted purely as an agent for the insurer against a third party to the insurance contract. Accordingly the Committee considered the concerns were more appropriately reviewed under the General Insurance Code of Practice.</p> <p>Status: Closed – outside jurisdiction.</p>

Engaging with stakeholders

In 2016–17, the Committee continued to engage with stakeholders to influence positive changes in industry behaviour, share its experience of Code compliance and highlight areas of good industry practice.

Stakeholder liaison

Throughout 2016–17, the Committee and the Compliance Manager attended stakeholder liaison meetings with regulators, Code Subscribers, consumer and small business representatives, NIBA and other insurance broking cluster groups. Issues discussed included obligations under the Code, training and Code monitoring and compliance.

The Committee also met with the newly established industry liaison group (the group) consisting of seven representatives of Code Subscribers. This group provides guidance and feedback on the Committee's compliance monitoring and investigation activities, supporting the Committee to effectively monitor insurance brokers' compliance with the Code.

Industry

The Committee and Compliance Manager met regularly with the NIBA CEO, Dallas Booth, following each Committee meeting, and also attended NIBA's Melbourne convention in September 2016. Also in September 2016, the Compliance Manager interacted with industry at the FOS Conference in Melbourne and at the Credit Law Conference in Queensland. The Compliance Manager presented to industry audiences at the FOS General Insurance Forums in Sydney, Brisbane, Melbourne and Adelaide in 2016 and 2017. Industry stakeholders were also among the audience for a presentation by the Compliance Manager at the March 2017 Responsible Lending and Borrowing Summit in Sydney.

Consumer advocates

Engagement with the financial counselling and money worker sector was a focus throughout 2016–17. The Compliance Manager met with FCRC Executive Officer, Peter Gartlan, and Fiona Guthrie, CEO of Financial Counselling Australia (FCA). In addition, the Compliance Manager presented at the Money Workers Association of the Northern Territory Conference in Darwin in November 2016, and attended the following financial counselling sector conferences:

- FCRC Conference in Melbourne (September 2016)
- Financial Counsellors' Association of NSW Conference in Sydney (September 2016)
- Financial Counsellors' Association of Queensland Annual State Conference in Port Douglas (March 2017)
- FCA's 'Making waves' Conference on the Gold Coast (May 2017).

Consumer advocates attended a Melbourne meeting with Committee members in September 2016. In November 2016, the Compliance Manager engaged with and trained consumer advocates

alongside the Consumer Action Law Centre and Westjustice¹¹ at sessions in Melbourne and Werribee. The same month in Queensland, the Compliance Manager met with Queensland Legal Aid.

In March 2017, two Committee members met with NIBA CEO Dallas Booth and consumer advocates at the Financial Rights Legal Centre in Sydney to discuss the upcoming Code review, what consumer expectations are for industry codes, and consumer concerns with insurance brokers.

Finally, the Compliance Manager participated in the August 2016 NAIDOC¹² week launch of the FOS Reconciliation Action Plan.

Other

The Committee and Compliance Manager engaged with relevant ombudsman schemes. As well as exchanging information with FOS on EDR issues on an ongoing basis, the Committee and Compliance Manager met regularly with the Credit and Investments Ombudsman. In August 2016, the Compliance Manager also met with the Deputy Commissioner at the Office of the Australian Small Business Commissioner, Craig Latham.

Regular meetings with ASIC were also held, and the Compliance Manager participated in the ASIC Annual Forum in March 2017.

In developing an online Code training module, the Compliance Manager met with the Australian and New Zealand Institute of Insurance and Finance, a leading provider of education, training and professional development for the sectors.

The Compliance Manager facilitated joint meetings for the four code committees (insurance brokers, general insurance, banking and customer owned banking) managed by the Compliance Manager. Following a meeting for all independent chairs in September 2016, a separate meeting of consumer representatives was held in October 2016. These meetings were a valuable forum in which to discuss, share and compare compliance monitoring issues among the various financial services industry sectors.

Publications

The NIBA website (www.niba.com.au/codeofpractice/overview.cfm) and the FOS website (www.fos.org.au/about-us/codes-of-practice/) detail Code obligations and the Committee's role, functions and work program.

During 2016–17, the Committee published:

- four articles in *The Circular*, FOS's online magazine (editions 26, 27, 28 and 29)
- an article about code monitoring committees in the FCRC publication *The Devil's Advocate*
- a Code e-learning module for external stakeholders

¹¹ Formed through a merger of the Footscray Community Legal Centre, Western Suburbs Legal Service and Wyndham Legal Service.

¹² National Aborigines and Islanders Day Observance Committee.

- two articles in *Insurance Adviser* – 'IBCCC Annual Report' (see page 14 of the November 2016 issue) and 'Complaint vs breach – what do you do?' (see page 15 of the February 2017 issue)
- four Tips of the Month – 'What constitutes a complaint', 'How to deal with a complaint against an insurer', 'Difference between a complaint and a Code breach' and 'Difference between a Code breach and a licensing requirement'
- a report on the *Own Motion Inquiry 'Internal Dispute Resolution processes'* (March 2017).

2017–18: Future outlook

The Committee's primary objectives for 2017–18 are to:

- improve interaction and engagement with Code Subscribers about their Code obligations
- continue the ongoing development of investigations and Code monitoring processes and procedures, and
- developing a constructive and valuable working relationship with the Industry Liaison Group.

The 2017 ACS and ACS Verification programs will be a focus of the Committee's work program. We anticipate that all Code Subscribers will participate in the ACS program, which is planned for the third quarter of 2017–18. Code Subscribers will be asked to report complaints and breach data for the period 1 January 2017 to 31 December 2017. Once these results have been analysed, around 10 per cent of Code Subscribers (including all of those with more than 100 FTE staff) will participate in the ACS Compliance Verification program. Each participant will receive an individual benchmarking document outlining their comparative breach and complaints data.

Following on from the success of the 2016–17 Own Motion Inquiry on IDR processes, a new Own Motion Inquiry is planned for the first quarter of 2017–18. The subject of the inquiry will be an area of emerging industry risk identified through analysis of ACS program results. This inquiry will be limited in scope and may be restricted to a selection of Code Subscribers only.

We will continue our focus on engagement and communication, working with NIBA, industry cluster groups, consumer advocates and Code Subscribers to promote understanding of the Committee's operations, and encourage positive breach and complaints monitoring and reporting.

Other future involvement might include the NIBA Code review, the proposed new one-stop-shop for external dispute resolution (EDR) including the transition from the FOS to the Australian Financial Complaints Authority (AFCA) and the Treasury proposal to make all financial industry codes mandatory and approved by ASIC.

Appendix A: Code Subscribers as at 30 June 2017

AB Phillips Pty Ltd
Abico Insurance Brokers Pty Ltd
ACME Insurance Brokers
ACN 054 261 371 Pty Ltd
Action Insurance Brokers Pty Ltd
Adroit Insurance Group Pty Ltd
AFA Insurance Brokers
Affinity Risk Partners (Brokers) Pty Ltd
Agririsk Services Pty Ltd
AHL Insurance Brokers Pty Ltd
AIIB Pty Ltd
AIS Insurance Brokers Pty Ltd
Allegiant Irs Pty Ltd
Alliance Insurance Broking Services Pty Ltd
Allsafe Insurance Brokers Pty Ltd
AMACIS Pty Ltd
Andrews Insurance Services Pty Ltd
Aon Risk Services Australia Limited
Apollo Risk Services Pty Ltd
Ardrossan Insurance Brokers Pty Ltd
Arena Underwriting Pty Ltd
Armbro Insurance Brokers Pty Ltd
Arrowsmith & Petruccelli Insurance Brokers Pty Ltd
Arthur J. Gallagher & Co (Aus) Limited
Asset Insurance Brokers Pty Ltd
ATC Insurance Solutions Pty Ltd
Atia Insurance Services Limited
Atlantic Insurance Brokers Pty Ltd
Aughtersons Insurance Brokers Pty Ltd
Austbrokers AEI Pty Ltd
Austbrokers Canberra Pty Limited
Austbrokers CE McDonald Pty Ltd
Austbrokers Central Coast Pty Ltd
Austbrokers City State
Austbrokers Dalby Pty Ltd
Austbrokers HCI
Austbrokers Premier Pty Ltd
Austbrokers Ris Pty Ltd
Austbrokers SPT Pty Ltd
Austbrokers Sydney Pty Ltd
Austcover Pty Ltd
Austgroup Insurance Brokers
Austral Anglo Pty Ltd
Austral Insurance Brokers Pty Ltd
Australasia Insurance Brokers Pty Ltd (AAIB)
Ausure Pty Ltd
Aviation Insurance Brokers of Australia
AWIB Pty Ltd
Ballarat Insurance Brokers Pty Ltd
Barrenjoey Lifestyle Pty Ltd
Bayside Brokers Pty Ltd
Bellrock Broking Pty Limited
Berkrey Insurance Consultants Pty Ltd
Bestmark Pty Ltd
BJS Body Corporate Insurance Brokers Pty Ltd
BJS Insurance Broker (Gippsland) Pty Ltd
BJS Insurance Brokers Pty Ltd
Blackburn (Insurance Brokers) Pty Ltd
BMG Aviation Pty Ltd
Body Corporate Brokers Pty Ltd
Bolderston & Associates Insurance Brokers
Bourchier Nominees Pty Ltd ATF The Coastal Unit Trust
Bovill Risk & Insurance Consultants Pty Ltd
Brecknock Insurance Brokers Pty Ltd
Breeze Underwriting Pty Ltd
Brett Grant & Associates Pty Ltd
Bricher Insurance Brokers
Brokers National
Brookvale Insurance Brokers Pty Ltd
Bruce Chiene Pty Ltd
Bruce Park Pty Ltd
Caip Services Pty Ltd
Cambridge Insurance Brokers
Capital Innovation Insurance Group Pty Ltd
Capital Insurance (Broking) Group Pty Ltd
Capital Insurance Brokers Pty Ltd
Capricorn Insurance Services Pty Ltd
Carriers Insurance Brokers Pty Ltd
Cartwright Insurance Brokers Pty Ltd
Central Insurance Brokers

Centrewest Insurance Brokers
 Cerberos Brokers Pty Ltd
 City Rural Insurance Brokers Pty Ltd
 Citycover (Aust) Pty Ltd
 CKA Risk Solutions Pty Ltd
 CN Botting & Associates (Broking) Pty Ltd
 Commercial Reality Insurance Brokers Pty Ltd
 Compass Insurance Brokers (Tas) Pty Ltd
 Comsure Insurance Brokers Pty Ltd
 Corporate Insurance Brokers Pty Ltd
 Country Mile Insurance Brokers
 Countrywide Tolstrup Financial Services Group Pty Ltd
 Coverforce Insurance Broking Victoria Pty Limited
 Coverforce Pty Ltd
 Coversafe Insurance Brokers Pty Ltd
 Cowden (NSW) Pty Ltd
 Cowden (SA) Pty Ltd
 Cowden (VIC) Pty Ltd
 Cowden Limited
 Darling Downs Insurance Brokers Pty Ltd
 Davelcorp Insurance Brokers Pty Ltd
 De Conno & Blanco Insurance Brokers
 Delaney Kelly Golding Pty Ltd
 Dennis Foster Insurance Brokers Pty Ltd
 DIB Insurance Brokers Pty Ltd
 Direct Insurance Brokers Pty Ltd
 Domina General Insurance Brokers Pty Ltd
 Don Hutton Insurance Brokers Pty Ltd
 Donnelly Insurance Brokers Pty Ltd
 Dove Insurance Brokers Pty Ltd
 Drakco Insurance Brokers Pty Ltd
 Driessen Insurance Brokers Pty Ltd
 East West Insurance Brokers Pty Ltd
 Edgewise Insurance Brokers Pty Ltd
 Elite General Insurance Services Pty Ltd
 Elkington Bishop Molineaux Insurance Brokers Pty Ltd
 Emjay Insurance Brokers Pty Ltd
 Endeavour Insurance Broking Group Pty Ltd
 Enrizen Pty Ltd
 FD Beck & Sons Pty Ltd
 Finance And Insurance (Brokers) Australia
 Finn Foster & Associates Pty Ltd
 Finsura Insurance Broking (Australia) Pty Ltd
 Fitzpatrick & Company Insurance Brokers
 FP Insurance Brokers
 Fraser and Associates Insurance Brokers Pty Ltd
 G.W.S. Pty Ltd
 Gale Insurance Brokers Pty Ltd
 Gardian Group Pty Ltd
 Gary Morton Insurance Brokers Pty Ltd
 Ginn & Penny Pty Ltd
 Glenowar Pty Ltd
 Goulburn Insurance Brokers Pty Limited
 Gow-Gates Ins Brokers (Australasia) Pty Ltd
 Gow-Gates Insurance Brokers Pty Ltd
 Grampians Insurance Brokers Pty Ltd
 Grange Insurance Solutions Pty Ltd
 Great Wall Insurance Services Pty Ltd
 Greater National Limited
 Griffiths Goodall Insurance Brokers Pty Ltd
 GSA Insurance Brokers Pty Ltd
 Guardian Insurance Brokers Pty Ltd
 Hann Insurance Brokers Pty Ltd
 Hawksford Insurance Brokers
 HIB Insurance Brokers Pty Ltd
 HK Insurance Brokers Pty Ltd
 Holland Insurance Brokers (Qld) Pty Ltd
 Honan Insurance Group Pty Ltd
 HQ Insurance Pty Limited
 HW Wood Australia Pty Ltd
 Ian Bell Insurance Brokers Pty Ltd
 IBL Limited
 IC Frith & Associates (SA) Pty Ltd
 IC Frith & Associates (WA)
 ICF (Australia) Pty Ltd
 IMC Insurance Brokers
 Insurance Advisernet Australia Pty Limited
 Insurance Aid General Brokers Partnership Pty Ltd
 Insurance Brokers of NSW Pty Ltd
 Insurance House Pty Ltd

Insurance Logic Pty Ltd
 Insurance Marketing Group of Aust Pty Ltd (IMGA)
 Insurance Solutions Corporation Pty Ltd
 Insurance Solutions Tasmania Pty Ltd
 Insure That Insurance Broking Pty Limited
 Insurex Pty Ltd
 Insurics Pty Ltd
 Integrated Life Insurance Solutions Pty Ltd
 Interchange Pty Ltd
 Interlink Insurance Brokers
 Interpacific Insurance Brokers Pty Ltd
 Interrisk Australia Pty Ltd
 Intersure Pty Ltd
 IPS Insurance Brokers Pty Ltd
 IRT Insurance Pty Ltd
 Jardine Lloyd Thompson Pty Ltd
 JHR Corporate Risk Services Pty Ltd
 JMD Ross Insurance Brokers Pty Ltd
 Joe Vella Insurance Brokers Pty Ltd
 Johansen Insurance Brokers Pty Ltd
 Johnson Pacific Pty Ltd
 KE Skilton & Associates Pty Ltd
 Kelly & Coe Insurance Brokers Pty Ltd
 Ken Tame & Associates Pty Ltd
 Kinnane Insurance Brokers Pty Ltd
 KJ Risk Group Pty Ltd
 Knightcorp Insurance Brokers
 Knights Guard Pty Ltd
 Lanyon Partners Insurance Brokers Pty Ltd
 LEA Insurance Brokers Pty Ltd
 Leed Insurance Group Pty Ltd
 Link Insurance Brokers
 Lockton Companies Australia Pty Ltd
 Logan Insurance Brokers Pty Ltd
 Logan Livestock Insurance Agency Pty Ltd
 M & S Insurance (Brokers) Services Pty Ltd
 Macey Insurance Brokers Pty Ltd
 Mackellar Insurance Brokers Pty Ltd
 Macquarie Insurance Brokers (Australia) Pty Ltd
 Made Easy Financial Group Pty Ltd
 Magic Millions Insurance Brokers Pty Limited
 Malcolm Hutson & Associates Pty Ltd
 Management & Risk Insurance Brokers
 Mandurah Insurance Brokers Pty Ltd
 Markey Group Pty Ltd
 Marsh Advantage Insurance Pty Ltd
 Marsh and McLennan Agency Pty Ltd
 Marsh Pty Ltd
 Masefield Holdings Pty Ltd
 Maxton Insurance Brokers
 MCA Insurance Brokers Pty Ltd
 McCormick Harris & Associates Pty Ltd
 McKenzie Ross & Co Pty Ltd
 McKillop Insurance Brokers Pty Ltd
 McNair Hurlle Latrobe Insurance Brokers Pty Ltd
 McNaughton Gardiner Insurance Brokers Pty Ltd
 MD Insurance Brokers Pty Ltd
 MFP Insurance Brokers
 MGA Insurance Brokers Pty Ltd
 Midas Insurance Brokers Pty Ltd
 Midland Insurance Brokers Australia Pty Ltd
 Milne Alexander Pty Ltd
 Moran Insurance Brokers Pty Ltd
 Morris Group Pty Ltd
 Multi Secure Insurance Solutions Pty Ltd
 Mutual Brokers Pty Ltd
 NAS Insurance Brokers
 National Corporate Broking Pty Ltd
 Nationwide Insurance Brokers Pty Ltd
 Nexus (Aust) Pty Ltd
 North Coast Insurance Brokers Pty Ltd
 North Queensland Insurance Brokers Pty Ltd
 Northern Tablelands Insurance Brokers Pty Limited
 Northlake Holdings Pty Ltd
 NSP Insurance Brokers Pty Ltd
 Oceanic Marine Risks Pty. Ltd
 Oracle Group (Australia) Pty Ltd
 O'Regan Group Pty Ltd
 O'Sullivan Insurance Brokers Pty Ltd
 Ovens Valley Insurance Brokers Pty Ltd

Oxley Insurance Brokers Pty Ltd
 P. I. Direct Insurance Brokers Pty Ltd
 PARKSTAR ENTERPRISES PTY LTD
 Paul Donnelly Insurance Brokers Pty Ltd
 Perryman O'Grady Philpott Pty Ltd
 Peter L Brown & Associates Pty Ltd
 Philp Newby & Owen Pty Ltd
 Piranha Insurance Brokers Pty Ltd
 Pollard Insurance Brokers
 Poole & Partners Investment Services Pty Ltd
 Professional Insurance Brokers (McKinnon)
 Professional Insurance Brokers (NSW) Pty Ltd
 Professional Insurance Brokers (Vic) Pty Ltd
 Professional Services Corporation Pty Ltd
 PSB Insurance Brokers Pty Ltd
 PSC Coast Wide Insurance Brokers Pty Ltd
 PSC Connect Pty Ltd
 PSC Insurance Brokers (Aust) Pty Ltd
 PSC Reliance Franchise Partners Pty Ltd
 Regional Insurance Brokers
 Resilium Insurance Broking Pty Ltd
 Richard Oliver Underwriting Managers Pty Ltd
 Richard Ray & Associates Pty Ltd
 Risk Insure Pty Ltd
 Rivers Insurance Brokers Pty Ltd
 RJ Vaughan and Monaghan Pty Ltd
 Roderick Insurance Brokers Pty Ltd
 RSM Group Pty Ltd
 Safeguard Insurance Brokers Pty Ltd
 Safeguard Insurance Solutions Pty Ltd
 Sarre Insurance Broking Services
 SBS Insurance Brokers
 Scope Insurance Brokers Pty Ltd
 Scott & Broad Pty Ltd
 Scott Winton Nominees Pty Ltd
 Sear & Associates Insurance Brokers Pty Ltd
 SECURE ENTERPRISES PTY LTD
 Shadforth Insurance Brokers Pty Ltd
 Shortland Insurance Brokers Pty Ltd
 Simplex Insurance Solutions Pty Ltd
 SMS Insurance Pty Ltd As Trustee For the Sms Unit Trust
 South Coast Insurance Brokers WA Pty Ltd
 SRG Group Pty Ltd
 Steadfast Eastern Insurance Brokers Pty Ltd
 Steadfast IRS Pty Limited
 Steadfast Taswide Insurance Brokers Pty Ltd
 Steel Pacific Insurance Brokers
 Stening Simpson (International) Pty Ltd
 Sterling Insurance Pty Ltd
 Stewards' Insurance Services Pty Ltd
 Strata Solutions International Pty Ltd
 Teamcare Pty Ltd
 Terrace Insurance Brokers Pty Ltd
 Thomas Insurance Brokers Pty Ltd
 Trans-West Insurance Brokers Pty Ltd
 Trident Insurance Group Pty Ltd
 Tucker McNeil Pty Limited
 Tudor Insurance Australia (Insurance Brokers) Pty Ltd
 Tymar (WA) Pty Ltd
 United Insurance Group Pty Ltd
 Unity Insurance Brokers
 Virtus Insurance Brokers Pty Ltd
 Warren Saunders Insurance Brokers (Aust) Pty Ltd
 Watkins Insurance Brokers
 Webmere Pty Ltd
 Webster Hyde Heath Insurance Brokers Pty Ltd
 Westcourt General Insurance Brokers Pty Ltd
 Western United Financial Services Pty Ltd
 Westlawn Insurance Brokers Pty Ltd
 Westminster Broking House Pty Ltd
 Whitbread Associates Pty Ltd
 Wilkinson Insurance Brokers Pty Ltd
 William Inglis & Son Limited
 Willis Australia Limited
 Willis Temby Insurance Brokers (WA) Pty Ltd
 WRI Insurance Brokers Pty Ltd
 Wymark Insurance Brokers Pty Ltd
 Your Insurance Broker

Table 10: Code Subscribers by state (head office) and size of operation¹³

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total	In %
Large organisation		8		3	1		9	4	25	8%
Medium organisation		19		5	3	1	11	10	49	15%
Small organisation		6		6	1	1	9	5	28	9%
Micro organisation	2	73	1	32	17	5	60	26	216	68%
Total	2	106	1	46	22	7	89	45	318	
In %	1%	33%	<1%	14%	7%	2%	28%	14%		

Note: The decrease in the number of Code Subscribers from 323 to 318 (as at 30 June 2017) follows a series of mergers and acquisitions within the industry over the last 12 months. For information about Code subscription please contact NIBA directly at niba@niba.com.au or telephone (02) 9964 9400.

¹³ Organisations are counted by AFSL.

Appendix B: Comparative table of self-reported Code breaches

Table 11: Self-reported Code breaches since 2012

Category	Breaches 2012	Breaches 2013	Breaches 2014	Breaches 2015		Breaches 2016	
Reporting period	01/07/11–30/06/12	01/07/12–30/06/13	01/01/14–31/12/14	01/01/15–31/12/15		01/01/16–31/12/16	
Code	2007 Code	2007 Code	2014 Code	2014 Code		2014 Code	
				in %	Total	In %	Total
General	28%	27%	61%	37%	322	50%	698
Legal standards, Standard 1	3%	7%	58%	29%	253	33%	460
Professionalism, Standard 12	25%	20%	3%	8%	69	17%	238
Disclosure	6%	19%	7%	17%	148	11%	154
Conflict of interest, Standard 2	2%	7%	1%	2%	14	1%	12
Who we act for, Standard 3	2%	0%	0%	<1%	2	1%	10
Scope of covered services, Standard 4	<1%	1%	3%	8%	71	5%	69
Remuneration, Standard 6	1%	11%	3%	7%	61	4%	63
Provision of insurance broking service	56%	42%	20%	28%	240	26%	363
Buying insurance, Standard 5	54%	39%	19%	24%	208	23%	318
Claim handling, Standard 5	2%	3%	1%	4%	31	3%	43
Acting for insurer, Standard 5	0%	0%	0%	0%	0	<1%	2
Disasters, Standard 9	0%	0%	0%	<1%	1	<1%	0
Other	10%	12%	12%	18%	152	13%	195
Money Handling, Standard 7	5%	6%	4%	6%	49	5%	69
Training, Standard 8	3%	5%	8%	8%	69	8%	113
Dispute resolution, Standard 10	1%	1%	0%	4%	33	<1%	10
Promotion of Code, Standard 11	1%	0%	0%	<1%	1	<1%	3
Total of self-reported breaches	1,686	423	466		862		1,410
Percentage of brokers self-reporting breaches	34%	36%	33%		32%		42%
Number of brokers participating in the ACS program¹⁴	438	91	126		323		318

¹⁴ See [Appendix I](#) for details of data collection

Appendix C: Additional tables – breach data by organisation size

Table 12: Self-reported Code breach categories by size of organisation in 2016

Code standards	Micro organisation	Small organisation	Medium organisation	Large organisation	Total
General	293	188	123	94	698
Legal Standards, Standard 1	147	177	85	51	460
Professionalism , Standard 12	146	11	38	43	238
Disclosure	45	10	68	31	154
Conflict of interest, Standard 2	7	2	3	0	12
Who we act for, Standard 3	4	2	3	1	10
Scope of covered services, Standard 4	24	6	13	26	69
Remuneration, Standard 6	10	0	49	4	63
Provision of ins. broking service	111	7	138	107	363
Buying insurance, Standard 5	87	3	125	103	318
Claim handling, Standard 5	24	4	12	3	43
Acting for insurer, Standard 5	0	0	1	1	2
Disasters, Standard 9	0	0	0	0	0
Other	55	37	42	61	195
Money Handling, Standard 7	27	4	27	11	69
Training, Standard 8	17	33	14	49	113
Dispute resolution, Standard 10	8	0	1	1	10
Promotion of Code, Standard 11	3	0	0	0	3
Total	504	242	371	293	1,410

Table 13: Self-reported Code breach numbers by size of organisation in 2016

Number of organisations who self-reported	Micro organisation	Small organisation	Medium organisation	Large organisation	All
Nil breaches	145	12	15	12	184
1 to 10 breaches	60	13	21	7	101
11 to 20 breaches	8	0	8	3	19
21 to 50 breaches	1	2	5	0	8
51 to 100 breaches	2	0	0	3	5
Over 100 breaches	0	1	0	0	1

Appendix D: Examples of self-reported Code breaches in 2016

General Obligations

- Breaches relating to Service Standard 1 ('comply with law') – these relate to Privacy.
- It was discovered following annual audit that the three month cash flow for the insurance broker would be in negative, thus breaching RG166. We advised ASIC and they replied that they would not be pursuing. Negative figure came about after assets were stripped from the company following the purchase. The insurance broker was not trading at the time.
- The non-significant breach of law (Standard 1) related to an Australian Financial Services Licence (AFSL) obligation; was caused by staff error; and was successfully dealt with by implementing an additional layer of oversight by management.
- Two separate breaches involving clients receiving information with their renewal notices that pertained to another client. We have investigated each of the breaches, identified the staff member involved, conducted retraining, implemented additional checking and conducted additional reviews on the work files of the staff member involved. We have not had any further such breaches since the remedial action has been implemented.
- NSW FSL/ESL Section 30 Notice was not always sent out with client's tax invoice. Nine clients affected. Staff re-sent Tax Invoice with apology letter plus Section 30 notice. We upgraded our processing system so generation of notice is now automated and prints out on back on tax invoice.

Disclosure Obligations

- Conflict of Interest is disclosed in Insurance Brokers' FSG, which is given to all clients. Individual conflicts of interest are also disclosed on the invoice/per insurer basis. Where the relevant Conflict of Interest clause is (accidentally) left off an invoice, it is reported as a breach in our Breaches Register. The clause is then included on the invoice and sent immediately to the client. This is stringently audited on a monthly basis. Conflict of Interest is also monitored on a monthly basis and any new conflict identified is incorporated into Insurance Brokers' disclosure documentation within 24-hours of its identification.
- Following purchase of the insurance broker, it was noted that some staff were not notifying insurers when insureds did not pay their premium. All broking staff underwent further training.
- Annual audit showed some staff forget to include our Related Bodies Corporate (RBC) clause. Emailed all staff with current list of RBC, recoded insurers with 'RBC' in name area to help remind staff when processing, ensure information and instructions provided to new staff.

Provision of Insurance Broking Services

- There have been multiple incidents involving human error – policy period being input incorrectly (12 months instead of six months). Training has been provided on the need for care and on identifying and flagging accounts with six month period early in the renewal process.

- In relation to the issues under 1.3(5) 'Buying Insurance', most of these related to renewals being issued late or an old version of an FSG being provided. Renewals were sent and ensured cover was in place. Lateness was sometimes due to insurers not getting details to the insurance broker. Correct FSG version sent where this was incorrect. Further training has been provided and we continue to provide ongoing training.
- The breaches related to complaints about incorrect cover being provided and in the claims department regarding time frames for claims handling and coverage issues.
- Breaches related to 'promptly advise you if policy coverage is accepted, declined, cancelled or lapsed or has had additional special terms applied.'
- All breaches were for the late processing of renewals where we were awaiting declarations from clients or insurers were late issuing terms. Have stressed importance of processing renewals on time. Follow up outstanding declarations with insureds more regularly.
- Most common breach related to buying insurance – promptly passing on communications/notices from underwriters (late renewal processing due to human errors/oversight), which has been addressed with staff and improved renewal preparation via review of reports and regular one-on-one meetings with staff. No client disadvantage as a result.
- Breaches occurred over a period of four months by various staff members and were due to either a processing error (hit incorrect keyboard button) or missed sending FSG or General Advice Warning which was sent as soon as breach was identified.
- All renewals not sent out within 14 days. Part of our monitoring and control process is to identify and record when renewals are not sent out within 14 days. There are many reasons for the delay such as client has moved without advising of change of address, documents sent to wrong address, clients slow to return instructions, and processing delays over holiday periods. However in all cases the clients have been contacted and hold covered has been arranged with the insurer.
- Both breaches involved the issuing of incorrect policy wording versions, one by error and the other by oversight/lack of awareness. The relevant staff have been trained accordingly and internal renewal procedure checklists for both binders have been amended.
- Breaches recognised included not sending FSG or Product Disclosure Statement (PDS) to clients, however in each instance the FSG and/or PDS was sent to the client.
- A processing error on our part initially resulted in a client being financially disadvantaged. The insurance broker paid the small extra premium to the insurer on behalf of the client. The client was happy with the result.
- There were breaches of procedure whereby clients received their renewal invitation late and there was a gap in the cover. In all instances our internal audit procedure was able to pick up this fact. Our procedure in this area has been strengthened so that all policies are renewed prior to the renewal date irrespective of whether or not our office has received renewal instructions from the client.
- An error on our part led to nil excess on a policy. This was quickly picked up by our internal audit procedures. Our office contacted the client and corrected the client's documentation.
- An updated FSG was not sent to a couple of clients following the release of an updated FSG during the first point of contact. The breach register was noted. The clients were sent the updated FSG. There was no difference in relation to commission range received from insurers between the two FSGs.
- The three 'Discharge of duties' (Standard 5 – buying insurance) breaches of the Code each related to one-off incidents caused by staff error. All relevant staff have been retrained in the relevant processes to ensure these do not reoccur; affected members have been

contacted to rectify any impact on them; and the incidents have been closed requiring no further action.

- The reported breaches relate to failing to provide retail clients with their renewal terms within a minimum of 14 days prior to expiry of their current insurance policy. All clients were provided with either a letter of apology or a verbal apology, and an offer to extend payment terms. There was no resultant financial impact or gaps in cover. These errors occurred during periods of portfolio transfer between account managers and are due to human error during the handover process.
- Three breaches of 'Professionalism' were due to renewals documentation being sent out after the renewal date. This was due to high workloads after an acquisition. The high volume of work has now subsided and our brokers are able to issue documentation well before renewal.
- Late renewals when we did not adhere to our service guidelines. Renewals not sent to the Insured 14 days prior to due date. In each case renewal documents were forwarded to the Insured within seven days after due date and in most cases a day or two before the due date. Correspondence on file to the Insured and insurer confirming renewal hold cover arrangements. The Insured had been advised of extended payment terms. Weekly Renewal Reports identify late renewals and Monthly Compliance Declarations completed by staff record any incidents, to improve work flow and identify any issues with insurers.
- We have experienced delays with respect to issuing declination letters. Prior to any declination letter being issued to a claimant, the letter must first be reviewed and approved by the relevant underwriter. This was causing some delays in that some of our emails were not being urgently actioned by the syndicates, resulting in delays in issuing the letter to the claimant. In rectifying this issue and to ensure our emails are urgently actioned, we have advised the relevant syndicate of our requirements under the Code and the importance of their urgent responses to ensure compliance under the Code. We have agreed that all correspondence to the syndicates that requires their urgent attention (including approving declination letters) should be titled as 'URGENT' and marked as high importance. Those emails listed as urgent will be actioned by the syndicates as a priority. This process has been relayed to staff and to the syndicates to avoid any further breaches.

Money Handling, Training, IDR and Code Promotion

- One breach related to a junior member of staff not being aware of *Corporations Act 2001* regulation for banking in one business day; procedures updated to correct.
- Following purchase of insurance broker and performance reviews, it was noted that one staff member had not received any training. This was immediately rectified by issuing a training plan for that staff member.
- Multiple breaches have occurred in relation to 'Unpaid premium underwriter advice reports not being sent to underwriters'. However, there are now procedures in place to ensure that this is not missed.
- The breaches were mainly invoices issued with fee charged twice or incorrect amount due to either inception date or incorrect instalments. The majority are detected when the invoice is rechecked before being sent to the client. We had a couple of training issues when renewal lists had not been updated manually by administration staff, but we have implemented a new system at the end of 2016. Therefore, we are no longer relying on manual lists.
- There have been multiple breaches of Service Standard 6, where we have not detailed all charges individually, and quoted client an all-inclusive cost including our fee. We have held training with all representatives across this matter.

- The breaches relating to the remuneration and conflicts of interest breach were human errors caused by issuing of incorrect disclosures. These have been rectified as appropriate to the client.
- Breach regarding retention of client cheque for over 24-hour period without being banked. Cheque made out to incorrect entity and bank would not accept. Cheque returned to client.
- Insurance Broker had some staff changes and client portfolios were switched between brokers which caused some clients not to receive competent service. This was recognised and preventative controls are now in place in terms of auto reports of renewals, debtors and un-invoiced policies going to each servicer weekly. Likewise the Compliance Manager runs reports at the end of each month to ensure there are no policies 'slipping through cracks'.
- Our system resulted in an incorrect manager being sent a commission cheque. Our internal audit procedure picked up this anomaly and the correct manager was paid commission.
- The cleaner was paid from the trust account instead of trading account.
- Breaches relating to professionalism were minor one-off human error issues that have been included for good measure. One breach relating to money handling relates to not always paying insurers within credit terms due to not paying in advance and only paying monthly.
- The one training (Service Standard 8) breach related to a single employee not completing their CPD within the year. This is being dealt with by management and increased oversight added to ensure CPD requirements are met by all staff.
- Late Payments to insurers: Remittance payment to insurer outside 90 Days Credit Terms. In each incident there is correspondence on file to the Insured and to the insurer requesting extended credit terms and confirmation of hold cover arrangements, pending settlement of Premium Funding Agreements or payment from the Insured. Payments of outstanding premiums had been paid to the insurer as soon as practical after payments received from the Insured and Premium Funder. We have identified payments made within 91–120 days were past period premium adjustment. While we have recorded two types of breaches for the 2016 period, we do not consider them significant. We view the recording of the breaches as a means of monitoring and improving our services to clients and review of services to and from insurers. We therefore record items/incidents within our compliance breach records which are more of a 'needs improvement' or 'additional employee training required' to maintain the high standards we place on ourselves and service standards to our clients.
- Client refund not processed within seven days of receipt from insurer. Simple oversight and refund processed as soon as it became apparent at end of month.
- General Complaint from prospective clients' father stating his son had attended our office seeking insurance and we told him we could not assist. Checked with staff and records – nothing on file. Apologised to father, but we are none the wiser.

Appendix E: Significant self-reported Code breaches in 2016

Table 14: Details of significant self-reported Code breaches in 2016

<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
Service Standard 1 <i>'We will comply with all relevant law.'</i>		
Company was purchased by another company. Following the annual audit, it was discovered that for June 2016 the company would have a negative cash flow.	No client affected	Notified ASIC and they responded that they would not be pursuing the matter. The original company had ceased trading at the time and the negative figure was the result of assets being stripped.
Did not send NSW FSL/ESL Section 30 Notice as required with client's tax invoice. Relied on staff to remember to attach Section 30 notice to tax invoices as we do not have many clients based in NSW.	9 clients affected	Staff re-sent Tax Invoice with apology letter plus Section 30 notice. Upgraded CBS processing system so generation of notice is now automated and prints out on back on tax invoice.
Client credit card details received by email from client and then forwarded to accounts person. One staff member (new) was not advised or trained and other staff member did not notice details within email.	2 clients affected	Advised clients to never email their credit card details. Emailed all staff again as reminder that we must never accept or pass on credit card details. Added to information provided to new staff with training.
Insurer emailed claim updates to staff members' previous employer (another broker). Insurer had not updated their records.	2–3 clients affected	Insurer updated email details.
On 28 April 2016, we notified ASIC in relation to a breach of our licence obligations relating to the provision of Statements of Advice to clients for the period Jan–April 2016 in relation to Personal Accident and Illness insurance. The cause of the breach was a failure to embed a compliant process and the	Regulatory failure; a minor inconvenience to a small group of clients (22); no actual or potential financial loss to clients.	All affected clients were notified and provided with a Statement of Advice within 14 days. A refund scheme was prepared in the event a client no longer wanted the product. Procedures were reviewed, training was provided to all relevant staff

<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
failure of an individual to understand what was required.		and the breach was communicated across the organisation and to Board for awareness.
<p>The client has discovered that their aggregate limit for occupational health and safety penalties/defence costs was only \$250,000 where the previous broker had a limit of \$500,000.</p> <p>The new insurance broker was appointed three days prior to the client's renewal. Upon investigation, the insurance broker may not have sent the policy documentation to the client and we are currently searching through archived emails.</p>	\$250,000	Legal Counsel has informed its Professional Indemnity insurers and management is liaising with the insurer and the client is being updated accordingly. The staff member concerned has been appraised on their duty of care.
Service Standard 3		
<i>'We will clearly tell you if we do not act for you.'</i>		
Director of the insurance broker needed to be appointed as AR. The organisation was unaware that he needed to be appointed as he is the director of the insurance broker and an employee of the business.	No client affected	It is currently being investigated whether being an employee and director is sufficient or whether he needs to be appointed separately as an AR.
<p>Incorrect use of former AFSL number.</p> <p>An AR had continued to show the AFSL number and/ or name of its former authorising licensee, on FSGs issued to 505 clients between 1 September 2015 and 26 April 2016, as well as in statements on its website.</p>	Issued to 505 clients in their FSG between 1 September 2015 and 26 April 2016, as well as in statements on its website.	The incorrect AFSL was removed from the FSG and website and updates provided.
Service Standard 5		
<i>'We will discharge our duties diligently, competently, fairly and with honesty and integrity ... when we are buying insurance and we act on your behalf...'</i>		
Client was denied access to her policies as broker had changed the name and ABN of the business on advice from one of the partners of the business but without consent of the other partner.	\$500, 2 clients affected	Client went to FOS and the insurance broker paid \$500 in compensation.
A failure in communication has meant that the original instructions to increase an Insured's cover were not followed and subsequent to a claim, a director sought to backdate the cover. This was an issue	\$6,600 reimbursed to the insurer by the director/Insured. No client was	Insurance broker has taken measures to ensure no employee will be involved in any policy whereby they are a related party. It has also

<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
because the director was a shareholder of the insured party.	affected as such and the insurer reimbursed.	counselled relevant employees. This matter was also recorded as breach of Service Standard 12 'We will not engage in activity or inactivity that is reasonably likely to bring the insurance broking profession into disrepute'.
Client received renewal terms after due date. Staff member on annual leave and received email advising changes to policy. Once back from leave advised insurer for revised renewal terms and finalised for client.	Cover held and only 1 client affected	Insurer held cover and renewal terms were sent to client urgently.
Deleted incorrect vehicle from policy. Staff member mixed up registration numbers on policies.	Value of vehicle uninsured for period until rectified	Policy cover amended to remove required vehicle and reinstate previously deleted vehicle.
The client had a claim denied after flooding as flood was not covered under their business policy.	Possible loss to client around \$45,000	The claim was lodged under insurance broker's Professional Indemnity policy and flood cover is now included on client's policy.
The client had a claim denied on a home policy due to it being unoccupied.	Estimated \$40,000–\$100,000	The claim was lodged under the insurance broker's Professional Indemnity policy and the insurance broker discussed the disclosure issue with the client.
The client had a claim denied as their policy did not extend to cover bodily injury arising from items that were dry hired.	Unknown at this stage	The claim was lodged under the insurance broker's Professional Indemnity policy.
Service Standard 6		
'Remuneration'		
Invoices received by clients with incorrect calculations or fee charged twice.	3 clients affected	All invoices were corrected straight away for the client. Reissued invoices.
Service Standard 7		
'We will handle any money received in accordance with relevant law and any agreement with you.'		

<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
Accidental withdrawal of sub-agent commission from trust account caused by ticking incorrect box in computer software.	\$5,337.17 – no client affected	Rectified within 10 days. Reported to ASIC who confirmed no further action at this time.
An employee of an AR provided fraudulent invoicing to one client and directed another client to pay into an account not managed by the licensee. As a result, policy payments were not made to the insurer. Financial stress was the reason declared by the employee.	Two clients affected, representing \$2,914.27 as the amount due for the three policies.	Both clients have had their insurance coverage paid for and confirmed. All other clients handled by this employee have been contacted. The employee of the AR has been terminated and their ASIC authorisation revoked. Monies have been reimbursed and an apology received. ASIC has obtained further information in order to administer penalties. The network and management team have been advised.
Manipulation of fees – A former AR of the licensee was identified to have: charged fees that were potentially hidden or undisclosed to his clients; charged inflated fees; and manipulated the broking system to generate invoices with the purpose of misleading and deceiving clients as to the amount of fees being charged. An internal investigation was conducted and the insurance broker appointed an external auditor to undertake an independent review of the broking system to ascertain if there are any other control or system weaknesses.	As the insurance broker could not verify if the correct fees had been charged, the decision was made to refund 34 clients affected	A number of detective controls have been developed, including reports to identify the manipulation of the system. The insurance broker is working with an external legal firm to seek recovery action against the former AR and lodge a complaint with the Police.
Internal cheque and post handling issues.		Resulted in a member of staff being dismissed for serious misconduct.

Service Standard 8

'We will ensure that we and our representatives are competent and adequately trained to provide the relevant services and will maintain this competence.'

<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
<p>Failure to keep proper record of training and qualifications completed by broking staff.</p> <p>An employee representative only completed part of her RG 146 qualifications at the time when she was transferred into one of insurance broker's niche team as a broking account executive in June 2016.</p> <p>The employee should have completed at least a Tier 2 qualification for her role as a broking account executive, meaning she can only give general and product advice to retail clients under supervision by someone who holds that qualification or Tier 1 qualification (without supervision).</p>	<p>There was no real or practical impact on the insurance broker's ability to provide financial services as a consequence of these breaches.</p>	<p>The insurance broker should have had better policies and processes in place to manage transfers and record employee qualifications. These deficiencies have now been rectified.</p>

Service Standard 12

'We will not engage in activity or inactivity that is reasonably likely to bring the insurance broking profession into disrepute.'

<p>Financial Services Provider (FSP) might have misled clients by setting out a sum insured in the policy schedule that did not accurately reflect the market value of the insured vehicle (e.g. caravan insurance).</p> <p>The breach was addressed as a referral of a complaint to FOS EDR and FOS SI investigation.</p>	<p>76 clients affected</p> <p>Total amount refunded \$8,348</p>	<p>The FSP agreed to the following:</p> <ul style="list-style-type: none"> • sending apology letters to all affected customers and refunded an appropriate premium amount, including interest • implementing an automatic depreciation model • using of a certified assessor, verifying any increased value requested by clients • maintaining a 'live' master spreadsheet to ensure that all premium refunds are received and banked by clients • all clients' queries regarding the matter will be referred directly to the FSP's CEO. <p>The matter was reported to ASIC as a significant Code breach and definite systemic issue on a de-identified basis.</p>
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<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
<p>An ex-employee advised a client they had PI cover in place when in fact they did not. This was due to lapse in concentration, coinciding with many other acts of poor performance.</p>	<p>This was a large PI exposure and could have resulted in a large PI claim against the insurance broker.</p>	<p>The staff member was terminated, due to this and other poor performance. The client was contacted by senior management, who explained the situation and arranged the correct cover.</p>
<p>Third Party removed the insurance broker's tax invoice and replaced the document with their own, and in doing so noted their own bank details on the invoice documentation.</p> <p>The underlying cause was a deliberate and fraudulent breach by the third party in question who is currently being investigated for their actions. In hindsight the insurance broker should have undertaken a more diligent review of the individual in question, although the initial introduction was facilitated by the insurance broker's commercial bank and a standard Google search (at the time) failed to highlight or indicate any wrong doing in the past. Furthermore, documentation supplied by the third party at the time of the initial introduction pointed to a genuine business opportunity.</p>	<p>Total number of policies that were initially bound: 62 at \$78,423</p> <p>Total number of policies that were subsequently cancelled with written instructions from the client: 41 at \$59,615</p>	<p>All individual clients involved have been contacted by phone and an email with the following documentation has been issued to serve as confirmation of cover:</p> <ul style="list-style-type: none"> • letter of engagement • FSG • relevant PDS • tax invoice • important notices • receipt confirming payment • proposal form.
<p>A significant breach has been recorded for a client. A formal complaint was received from him on 26.09.16, relating to a workplace accident in December 2012 resulting in an employee death. The complaint related to alleged failure to recommend appropriate liability covers. Client incurred significant legal costs in defending himself against workplace health and safety breach accusations and representing himself in the Coroner's court. Client suffered legal costs of some \$144,000.</p> <p>Client did not have Statutory Liability cover (which if held would have responded to the 'expenses' claim).</p>	<p>One client claimed to be affected to the extent of \$143,747.</p>	<p>On receipt of client's written complaint we enacted our IDR process and immediately put the matter in the hands of our PI insurer. Over several months an amount of communication was held between ourselves, the PI insurer and the client. The PI insurer elected to make an offer to the client taking into account the expenses that would be incurred in defending the claim in a court. Eventually, through negotiation, the client accepted a without prejudice offer of \$75,000.</p> <p>Remedial training sessions have been conducted with all broking staff reinforcing the needs analysis process and</p>

<i>Issue and cause</i>	<i>Exposure</i>	<i>Outcome</i>
		<p>the need to include 'General Advice' warnings to clients. We reviewed our standard General Advice wording and expanded it to further clarify that advice given is limited to the insurance products discussed.</p>

Appendix F: Comparative table of self-reported complaints

Table 15: Self-reported IDR complaints since 2013

	Category	Complaints 2013		Complaints 2014		Complaints 2015		Complaints 2016	
		01/07/2012–30/06/2013		01/01/2014–31/12/2014		01/01/2015–31/12/2015		01/01/2016–31/12/2016	
Products involved in complaint	Home Building	39	12%	28	9%	88	9%	143	14%
	Home Contents	19	6%	21	7%	41	4%	47	5%
	Personal Motor Vehicle	31	9%	29	9%	205	20%	157	15%
	Commercial Motor Vehicle	28	8%	25	8%	84	8%	69	7%
	Personal and Domestic Property	7	2%	14	4%	81	8%	19	2%
	Strata Title	11	3%	11	3%	39	4%	44	4%
	Sickness and Accident	49	15%	4	1%	24	2%	38	4%
	Travel	3	1%	4	1%	13	1%	6	1%
	Extended Warranty	0	0%	3	1%	2	<1%	2	<1%
	Professional Indemnity	7	2%	14	4%	42	4%	27	3%
	Small Business	76	23%	73	23%	167	16%	212	21%
	Farm	5	1%	18	6%	36	4%	23	2%
	Life	4	1%	2	1%	2	<1%	2	<1%
	Consumer Credit	0	0%	0	0%	1	<1%	1	<1%
	Income Protection	6	2%	0	0%	6	1%	2	<1%
Other ¹⁵	50	15%	75	23%	192	19%	234	22%	
Issues involved in complaint	Advice	29	9%	18	6%	57	6%	105	10%
	Charges	16	5%	18	6%	71	7%	95	9%
	Disclosure	7	2%	11	3%	31	3%	45	4%
	Financial Difficulty	2	1%	10	3%	9	1%	11	1%
	Financial Service Provider Decision	85	25%	31	10%	51	5%	68	7%
	Instructions	21	6%	20	6%	57	6%	82	8%
	Privacy	3	1%	4	1%	11	1%	35	3%
	Service, general feedback or improved suggestion ¹⁶	91	27%	133	41%	317	31%	154	15%
	Transactions	13	4%	2	1%	42	4%	51	5%
	Other	68	20%	74	23%	377	37%	380	38%
Outcome of complaint	In favour of insurance broker	49	15%	27	8%	196	19%	164	16%
	In favour of client	113	34%	67	21%	199	19%	212	21%

¹⁵ 'Other' represents the number of complaints that were identified by the Code Subscriber in the total number of complaints, but not specified further.

¹⁶ New category introduced in the 2014 ACS program.

	Category	Complaints 2013		Complaints 2014		Complaints 2015		Complaints 2016	
		01/07/2012–30/06/2013		01/01/2014–31/12/2014		01/01/2015–31/12/2015		01/01/2016–31/12/2016	
	Mutual agreement	89	27%	44	14%	262	26%	243	24%
	Referred to External Dispute Resolution	27	8%	18	6%	51	5%	35	3%
	Withdrawn	33	10%	25	8%	49	5%	43	4%
	Client taken legal action	0	0%	4	1%	7	1%	9	1%
	Apology, explanation and/or acknowledgement of feedback ¹⁷	n/a	n/a	90	28%	252	25%	210	20%
	Outstanding	10	3%	8	2%	0	0%	44	4%
	Other	14	4%	38	12%	7	1%	66	7%
Resolution timeframe	On the spot ¹⁸	n/a	n/a	61	19%	232	23%	158	15%
	Within 5 days	139	41%	70	22%	332	32%	394	38%
	Within 21 days	88	26%	75	23%	244	24%	257	25%
	Within 45 days	38	11%	46	14%	144	14%	89	9%
	Beyond 45 days	49	15%	34	11%	64	6%	78	8%
	Unresolved	7	2%	8	2%	0	0%	43	4%
	Other	14	4%	27	8%	7	1%	7	1%
Total number of self-reported complaints¹⁹		335		321		1,023		1,026	
Total number of self-reported complaints involving breaches of the Code		54	17%	13	4%	132	13%	192	19%
Number of Code Subscribers participating in the ACS program that self-reported complaints		51	56%	76	60%	162	50%	173	54%

¹⁷ New category introduced in the 2014 ACS.

¹⁸ New category introduced in the 2014 ACS.

¹⁹ See [Appendix I](#) for details of data collection

Appendix G: Additional tables – complaints data by organisation size

Table 16: Self-reported IDR complaints categories by size of organisation in 2016

	Micro organisation	Small organisation	Medium organisation	Large organisation
Product				
Home Building	61	6	17	59
Home Contents	17	6	14	10
Personal Motor Vehicle	43	77	11	26
Commercial Motor Vehicle	22	4	20	23
Personal and Domestic Property	10	4	1	4
Strata Title	14	1	9	20
Sickness and Accident	5	17	10	6
Travel	2	2	1	1
Extended Warranty	1	0	1	0
Professional Indemnity	8	1	8	10
Small Business	67	43	48	54
Farm	9	2	4	8
Life	0	1	0	1
Consumer Credit	0	0	0	1
Income Protection	0	0	0	2
Other	68	20	60	86
Issue				
Advice	24	10	34	37
Charges	26	10	9	50
Disclosure	8	2	6	29
Financial Difficulty	6	0	2	3
FSP Decision	19	22	15	12
Instructions	31	9	17	25
Privacy	4	3	7	21
Service, general feedback	36	44	42	32
Transactions	22	4	14	11
Other	134	81	63	87
Outcome				
In favour of insurance broker	33	51	13	67
In favour of client	51	39	34	88
Mutual agreement	75	56	38	74
Referred to EDR	7	1	5	22
Withdrawn	21	2	11	9

	Micro organisation	Small organisation	Medium organisation	Large organisation
Client taken legal action	1	4	4	0
Apology, explanation	94	25	66	25
Outstanding	6	4	19	15
Other	27	2	27	7
Timeframe				
resolved on the spot	93	25	28	12
resolved within 5 days	140	113	84	57
resolved within 21 days	49	25	47	136
resolved within 45 days	15	9	21	44
resolved beyond 45 days	26	8	14	30
unresolved as at June	19	7	20	18
Other	2	1	4	0

Table 17: Self-reported IDR complaints numbers by size of organisation in 2016

Number of organisations who self-reported	Micro organisation	Small organisation	Medium organisation	Large organisation	All
Nil IDR complaints	116	13	8	8	145
1 to 10 IDR complaints	92	14	36	5	147
11 to 20 IDR complaints	3	3	5	9	20
21 to 50 IDR complaints	1	1	0	2	4
51 to 100 IDR complaints	0	1	0	1	2
Over 100 IDR complaints	0	0	0	0	0

Appendix H: Additional tables – breach and complaints data totals

Table 18: Self-reported Code breaches by size of organisation for calendar years 2012 to 2016

Self-reported by Code Subscribers with	2012	2013	2014	2015	2016
Micro organisation	82%	66%	89%	72%	36%
Small organisation				10%	17%
Medium organisation	3%	17%	7%	13%	26%
Large organisation	15%	17%	4%	5%	21%

Table 19: Number of organisations (in % of total Code Subscribers) self-reporting Code breaches for calendar years 2012 to 2016

Number of self-reported Code breaches	2012	2013	2014	2015	2016
Nil	65%	64%	68%	68%	58%
1 to 10	28%	24%	25%	26%	32%
11 to 20	4%	6%	2%	4%	6%
21 to 50	2%	4%	3%	2%	3%
51 to 100	0%	2%	1%	0%	1%
Over 100	1%	0%	1%	<1%	<1%

Table 20: Self-reported IDR complaints by size of organisation for calendar years 2012 to 2016

Self-reported by Code Subscribers with	2012	2013	2014	2015	2016
Micro organisation	66%	53%	60%	10%	18%
Small organisation				71%	32%
Medium organisation	18%	13%	24%	14%	20%
Large organisation	16%	34%	16%	5%	30%

Table 21: Number of organisations (in % of total Code Subscribers) self-reporting IDR complaints for calendar years 2012 to 2016

Number of self-reported IDR complaints	2012	2013	2014	2015	2016
Nil	64%	44%	46%	48%	46%
1 to 10	33%	48%	48%	44%	46%
11 to 20	1%	4%	4%	6%	6%
21 to 50	1%	3%	2%	2%	1%
51 to 100	0%	1%	0%	0%	<1%
Over 100	0%	0%	0%	<1%	0%

Appendix I: Definitions

Data for 2012 period	All Code Subscribers participated in the ACS program. This was the first time Code Subscribers were asked to self-report breach and complaints data.
Data for 2013 period	91 selected Code Subscribers, representing 25% of all Code Subscribers, participated in the ACS program. The selection process was weighted according to organisation size and location to generate breach data percentages that were indicative of the overall industry position.
Data for 2014 period	The revised Code became effective 1 January 2014. 126 selected Code Subscribers, representing 37% of all Code Subscribers, participated in the ACS program. The selection process was weighted according to organisation size and location to generate breach data percentages that are indicative of the overall industry position.
Data since 2015 period	Since 2015, all Code Subscribers participate in the ACS program. A new category was introduced to better specify the various organisation sizes and align with the 'small business' definition of 20 full-time equivalent (FTE) employees. The reporting period changed to represent the calendar year, 1 January to 31 December to align with the effective date of the revised Code.
Categorisation of Code Subscribers	<p>Since 2015, Code Subscribers are categorised based on their size of organisation as follows:</p> <ul style="list-style-type: none">• Micro organisation – up to 20 FTE employees (<i>prior to 2015 this category was included in the 'small' category</i>)• Small organisation – 21 to 30 FTE employees• Medium organisation – 31 to 100 FTE employees• Large organisation – over 100 FTE employees.