

Protecting vulnerable insureds – Not as straightforward as it seems

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By **Charmian Holmes, Lydia Carstensen**

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Charmian Holmes

From 1 July, subscribers to the General Insurance Code of Practice 2020 (Code) must take extra care of small businesses and individuals who have purchased a retail insurance product and are ‘vulnerable’.

When and who does the Code apply to?

The Code launched on 1 January 2020 but most of its provisions will take effect in 2021. One exception is the vulnerability provisions, which applied from 1 July 2020. The Code applies to subscribers and their agents. Those agents may deal with insureds at the time the policy is purchased or at other times, like when a claim is made.

What is vulnerability?

The Code doesn't define 'vulnerability' but it lists factors that may cause or contribute to vulnerability such as:

- Age;
- Disability;
- Mental or physical health conditions;
- Family violence;
- Language barriers;
- Literacy barriers;
- Cultural background;

- Aboriginal or Torres Strait Islander status;
- Remote location; or
- Financial distress.

Some of these factors are static and will exist at the time the insurance policy begins, like remote location or a language barrier. Other factors may crystallize after the policy inception or may be progressive and transpire at the time of making a claim, like if the insured person's mental health is deteriorating.

What do you and your employees need to do under the Code?

There are several things you must do when dealing with an insured person or business including:

- **Recognise that their needs can change** over time and in response to particular situations. This may be difficult to identify, particularly if there is limited contact between you and the insured person or business after the policy has commenced. You can manage this risk by telling those who are insured about the vulnerability provisions and your vulnerability policies and procedures, both verbally and in writing.
- **Encourage them to disclose their vulnerability.** This can be difficult because it requires a level of self-awareness which the individual may not have.
- **Take reasonable steps to identify actual or potential vulnerability.** Insurers and their agents can do this by asking specific questions during the disclosure process.
- **Provide additional support at all times.** Vulnerable insureds may require additional support at any point in the life of the policy, even where they have not made a claim.

You must also have internal policies and training in place to make sure your employees are aware of and recognise signs of vulnerability and can provide support to vulnerable insureds as quickly as possible. These must assist employees to:

- Understand if an insured person or business is vulnerable;
- Decide how and to what extent you can support someone who is vulnerable;
- Take an insured's particular needs and vulnerability into account;
- Engage with the insured with sensitivity, dignity, respect, and compassion. This may include having guidelines in place to allow them to arrange additional support or referring them to people or services with specialist training and experience, like a lawyer, consumer representative, interpreter or friend;
- Work with the insured to find a suitable, sensitive, and compassionate way to proceed as early as practicable;
- Protect the right to privacy of the people you insure;
- Escalate a case internally to seek a second opinion on whether an insured is vulnerable;

- Reach a decision on whether an insured is vulnerable quickly. This includes having timeframes in place and ensuring there are no delays; and
- Have their decision challenged. Your internal dispute resolution system must enable an insured to challenge an employee's decision.

You must also have a publicly available family violence policy.

This is a challenging area as there are many factors that can indicate vulnerability, like a pattern of delayed payments or indications of mental illness. Each business and insured person must be handled on a case-by-case basis.