

HBCF Complaint and Dispute Handling Procedures for Claims

This document has been prepared by icare HBCF:

Insurance and Care NSW (icare) provides services in the administration of the Home Building Compensation Fund for the NSW Self Insurance Corporation.

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1.1	4.1 Notice of Periodic Reviews	1 Nov 2011	icare HWIF Risk Manager
1.2	<p>Changed all references to Consumer Trader, Tenancy Tribunal (CTTT) to NSW Civil and Administrative Tribunal (NCAT).</p> <p>Also changes in line with amendments to the 'Claims Manual' and 'Claims16/12/2021 Information for Homeowners' documents</p>	1 Jul 2014	icare HWIF Risk Manager
2.0	<p>Change all references to the Home Warranty Insurance Fund (HWIF) to the Home Building Compensation Fund (HBCF). Other changes effecting because of commencement of the Home Building Amendment Act 2014</p>	15 Jan 2015	icare HBCF Industry Liaison Officer
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4.0	Content edited to reflect appointment of new Claims and Eligibility Risk Managers	20 Sep 2018	icare HBCF Risk Manager
5.0	<p>Revision for 2019 SIRA submission Content edited to reflect:</p> <p>having one Eligibility Risk Manager restructured underwriting appeals process removing duplication of content between this document and the Eligibility Manual / Underwriting Procedures Manual</p>	8 Aug 2019	<p>icare HBCF Risk Manager</p> <p>icare HBCF Underwriting Manager</p>

Version	Revision Description	Date	Author
6.0	Revision for 2020 SIRA submission	1 January 2021	icare HBCF claims manager icare HBCF Underwriting Manager
7.0	<p>Updates based on Customer Advocate recommendations to rewrite content in plain English.</p> <p>Changed service standards for the claim manager's response from two to five days for:</p> <p>Receipt of claim if prescribed claims information is complete</p> <p>Receipt of claim if prescribed claims information is incomplete requirements</p> <p>Note: SIRA has approved the change from two to five days.</p>	June 2021	icare HBCF Technical Writer
8.0	Updates to reflect icare's new underwriting model, where icare underwrites major builders instead of CSC.	August 2021	icare HBCF Technical Writer
1.0	<p>Note: On 3 August 2021, icare HBCF management agreed to split HBCF Complaint and Disputes Handling Procedures into separate Claims and Eligibility (Underwriting) documents, as their processes are different.</p> <p>The new versions will be published simultaneously, and the previous version archived.</p> <p>Updated definitions of Complaints and disputes to align with the new icare Complaints Policy (November 2021).</p> <p>This is the first version of the new HBCF Complaint and Dispute Handling Procedures for Claims.</p>	December 2021	icare HBCF Technical Writer

Table of contents

Home building compensation insurance	5
Home Building Compensation Fund—HBCF	5
Document objectives and scope	5
Audience	6
Claims Committee	6
Definitions	6
Complaint and dispute handling procedures overview	9
Claims CDHP	9
Request a review or make a complaint	9
Register your complaint	11
Lodge a complaint with SIRA	11
Appeal a decision—request a review	12
Lodge a dispute about the review outcome	12
Service Standards	12
Claims committee oversight and regulation	15
icare HBCF Claims Committee constitution	15
Matters for the Claims Committee	16
Claims Committee process	16
Other matters for the Claims Committee	16
Disclaimer	16

Home building compensation insurance

Home Building Compensation (**HBC**) insurance is part of the Government's consumer protection strategy for homeowners having building work done in New South Wales. It provides a safety net for homeowners if their builder¹ becomes insolvent, disappears, or dies and can't meet their building contract obligations.

The HBC safety net also protects homeowners if a builder has their licence suspended because they failed to comply with an NSW Civil and Administrative Tribunal (**NCAT**) or Court order to pay compensation to the homeowner.

The State Insurance Regulatory Authority (**SIRA**) regulates the market for this insurance, including the provider licensing and oversight of the home building compensation scheme operations.

Home Building Compensation Fund—HBCF

Insurance and Care NSW (**icare**) manages the Home Building Compensation Fund (**HBCF**) for the NSW Self Insurance Corporation (**SiCorp**). Together we are icare HBCF. **icare HBCF** is a licensed provider of Home Building Compensation (**HBC**) insurance under Part 6 of the *Home Building Act 1989*.

icare HBCF Claims uses an outsourced service model, with a contractual arrangement with a scheme agent. Gallagher Bassett Services Pty Ltd is the claims manager and manages claims on behalf of the icare HBCF.

Document objectives and scope

This document defines a consistent set of guidelines and procedures for icare HBCF and the claims manager to manage requests to review decisions and any escalated disputes about decisions. This document also covers complaints about service and compliance with guidelines and regulations.

This document will cover:

- handling disputes about claims decisions
- handling complaints about service and compliance
- the role of the claims manager and the icare HBCF Claims Committee in handling complaints and escalated disputes
- determining when matters should be referred to the icare HBCF Claims Committee
- the membership and constitution of the icare HBCF Claims Committee
- accessing SIRA's complaint or dispute resolution processes.

Note: For complaints and disputes about eligibility decisions, service, and compliance, please refer to: HBCF Complaint and Dispute Handling Procedures for Eligibility and Premiums, available on the icare website: <https://www.icare.nsw.gov.au/builders-and-homeowners/disputes/lodge-a-dispute>.

¹ References in this document to builders and building work include and apply to work undertaken by trade contractors and other building contractors such as electricians, plumbers, carpenters, swimming pool builders etc.

Audience

This document is for homeowners, builders, brokers, and other stakeholders in the building process. We hope that this document will help guide you, our customers, through the Complaint and Dispute Handling Procedures for Claims.

Claims Committee

icare HBCF establishes, constitutes, and operates a claims committee to handle escalated disputes.

Definitions

Complaint

A complaint is an expression of dissatisfaction made to, or about icare, our products, services, staff, or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.

Note: Disputes, Enquiries and Feedback are not captured by this definition.

Types of complaints

A complaint can be about:

- our conduct
- our service
- our compliance with regulations and guidelines.

icare HBCF and the claims manager must follow the guidelines that the regulator (SIRA) has defined in the *Home building compensation (claims handling) insurance guidelines*. We have defined service standards for managing claims in the HBCF Claims Information for Homeowners. Please refer to Supporting references on page 6.

If you don't think we've followed the guidelines, or you think we've failed to meet our service standard requirements you can complain to us directly or request a regulatory review from SIRA. Refer to Request a regulatory review on page 11.

Dispute

A dispute is an issue, or part of an issue raised by a customer, that is recognised as a 'dispute' or equivalent by relevant scheme legislation or regulation and has a prescribed process for resolution involving parties external to icare but does not include complaints escalated to SIRA.

Disputes include requests to review claims decisions.

CDHP

Complaint and Dispute Handling Procedures.

This document is the CDHP for Claims. There is also a CDHP for Eligibility and Premiums.

Internal Dispute Resolution—IDR—Process

icare HBCF and our scheme agent have documented processes to handle complaints, and disputes about decisions. These processes have service standards that provide for prompt resolution of, or response to issues. For more information, please refer to Service Standards on page 12.

Regulator—SIRA

SIRA regulates the Home Building Compensation scheme. Although SIRA cannot overturn an individual decision, SIRA can review icare HBCF’s compliance with the legislation, guidelines, and policy. Refer to Request a regulatory review on page 11.

Scheme agent

Gallagher Bassett acts as icare HBCF’s scheme agent to perform claims management tasks and is referred to as the claims manager in this document.

Service standards

Service standards exist for managing claims. A complaint can be about icare HBCF’s or our scheme agent’s failure to meet the defined service standards or their failure to comply with the guidelines (refer to Service Standards on page 12).

icare HBCF and our scheme agent follow agreed processes to record complaints and disputes and address them fairly and quickly. Service standards define time frames for each step in the dispute and complaint management process, from acknowledgement through to response, resolution, or final decision.

Supporting references

Table 1 contains supporting reference materials. The SIRA guidelines and icare HBCF manuals and procedures define how icare HBCF and our scheme agent manage claims and meet their obligations under the *Home Building Act 1989* and the *Home Building Regulation 2014*.

Table 1 Supporting reference materials for Claims model

Provider	Reference material	Location
icare HBCF	HBCF Claims Fact Sheet	Published by icare HBCF and available at https://www.icare.nsw.gov.au
icare HBCF	HBCF Homeowner Fact Sheet	Published by icare HBCF and available at https://www.icare.nsw.gov.au
icare HBCF	HBCF Claims Information for Homeowners	Published by icare HBCF and available at https://www.icare.nsw.gov.au
icare HBCF	HBCF Claims Manual	icare HBCF provides this manual to the scheme agent.
icare HBCF	<ul style="list-style-type: none"> HBCF Complaint and Dispute Handling Procedures for Claims HBCF Complaint and Dispute Handling Procedures for Eligibility and Premiums 	Published by icare HBCF and available at https://www.icare.nsw.gov.au
NSW Fair Trading	Guide to Standards & Tolerances Consumer Building Guide	Published by NSW Fair Trading and available at https://www.fairtrading.nsw.gov.au
Community and Justice	NSW Government’s Model Litigant Policy	Published by the NSW Department of Community and Justice and available at https://www.justice.nsw.gov.au/

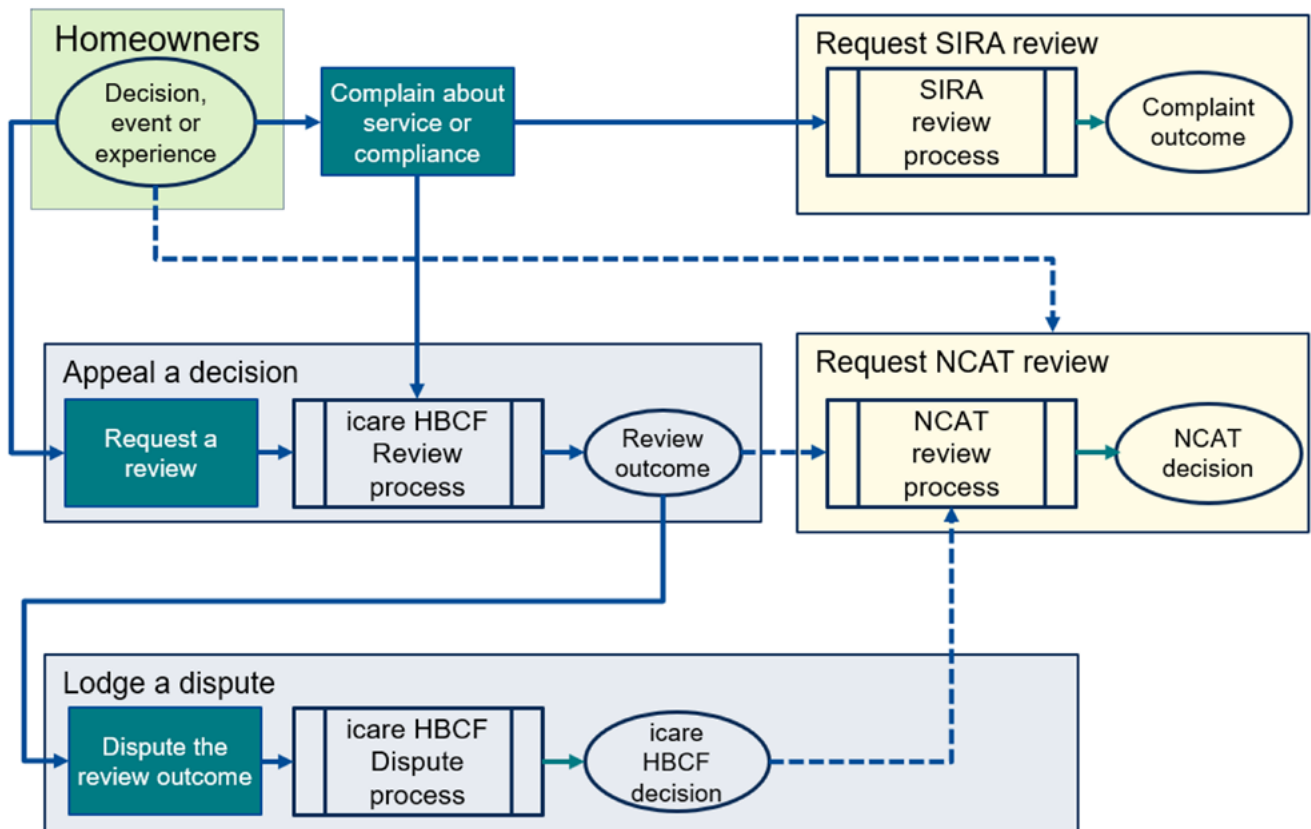
Provider	Reference material	Location
State Insurance Regulatory Authority (SIRA)	<ul style="list-style-type: none"> • Home Building Compensation (claims handling) insurance guidelines • Home Building Compensation (eligibility) insurance guidelines • Home Building Compensation (premium) insurance guidelines • Home Building Compensation (prudential) insurance guidelines • HBC standard licence conditions for insurers • NSW Self Insurance Corporation conditions—Home Building Compensation regulation • Customer Service Conduct Principles 	Published by SIRA and available at https://www.sira.nsw.gov.au/
NCAT	Procedural Direction 5 - Acceptance of Home Building claims	For more information, please go to the NCAT website: <ul style="list-style-type: none"> • https://www.ncat.nsw.gov.au/ncat/how-ncat-works/how-to-apply.html • https://www.ncat.nsw.gov.au/ncat/publications-and-resources/procedural-directions-and-guidelines.html

Complaint and dispute handling procedures overview

icare HBCF and our scheme agent follow agreed processes to record complaints and disputes and address them fairly and quickly. Service standards define time frames for each step in the complaint and dispute handling process, from acknowledgement through to response, resolution, or final decision. Please refer to the Service Standards section on page 12 for service standard details.

Where possible, icare HBCF and the claims manager try to resolve complaints and disputes before the need to refer them to higher authorities.

Claims CDHP



If they wish, a homeowner can request an NCAT review at any point in the decision process in accordance with the rights described at Appeal to NCAT on page 12.

Request a review or make a complaint

Who you contact depends on the service or product you're concerned about.

Refer to the list below to find out who to contact. If you're not sure, call us on 02 9216 3224.

When you make a complaint, we will acknowledge telephone complaints immediately and written complaints within three business days. We will send you the results of the investigation into the complaint within 15 business days from when the complaint was made. If further investigations into the complaint are required, we will agree a reasonable timeframe with you.

Service or product	Contact details
<ul style="list-style-type: none"> • Claims decisions • Claims management • Service 	<p>The claims manager's Dispute Resolution Officer:</p> <ul style="list-style-type: none"> • Phone: (02) 9464 7270 • Email: complaints_builderswarrantyclaims@gbtpa.com.au <p>You can apply to NCAT at any point in the decision process in accordance with the rights described at Appeal to NCAT on page 12.</p> <ul style="list-style-type: none"> • https://www.ncat.nsw.gov.au/ncat/how-ncat-works/how-to-apply.html
<ul style="list-style-type: none"> • Claims decisions • Service 	<p>HBCF Enquiries</p> <ul style="list-style-type: none"> • Email: enquiries.hbcf@icare.nsw.gov.au • Phone: (02) 9216 3224 <p>Make a complaint directly to icare HBCF:</p> <ul style="list-style-type: none"> • Phone: 13 99 22 • Website: https://www.icare.nsw.gov.au/contact-us/complaints
<ul style="list-style-type: none"> • Claims decisions 	<p>If you do so within 45 days of receiving the claim decision (or obtain leave from the Tribunal with special circumstances), you have the right to appeal the decision through the NCAT or the District Court.</p> <p>For more information, please go to the NCAT website: https://www.ncat.nsw.gov.au/ncat/how-ncat-works/how-to-apply.html</p>
<ul style="list-style-type: none"> • Service • Legislation • Policy • Guidelines 	<p>Although SIRA cannot overturn an individual decision, you can ask SIRA to conduct a regulatory compliance review to assess icare HBCF's compliance with the legislation, guidelines, and policy.</p> <p>SIRA</p> <ul style="list-style-type: none"> • Phone: 13 10 50 • Email: contact@sira.nsw.gov.au • Website: https://www.sira.nsw.gov.au/disputes-and-complaints/home-building-compensation-disputes <p>Note: You can also lodge a complaint directly with SIRA about any aspect of our service.</p>
<ul style="list-style-type: none"> • Claims 	<p>You may need to contact NSW Fair Trading and seek their help if:</p> <ul style="list-style-type: none"> • your builder refuses to fix the problems • you cannot contact the builder • your builder fails to turn up at the site. <p>If you can't resolve a dispute with your builder or tradesperson, NSW Fair Trading may be able to assist with building-related disputes about:</p> <ul style="list-style-type: none"> • incomplete or defective residential building work • damage caused to other structures because of residential building work being done • specialist work (that is, electrical wiring, plumbing, gasfitting or air conditioning/refrigeration). <p>You can learn more at NSW Fair Trading (https://www.fairtrading.nsw.gov.au).</p>

Register your complaint

Homeowners, builders, and other stakeholders may register their complaint, without having to submit their complaint to any further review process, such as an IDR process or committee review.

When the complaint cannot be resolved by any icare HBCF review process, registration will ensure the complaint is reported on. Examples of complaints that icare HBCF cannot resolve could include, licencing issues handled by NSW Fair Trading and premium prices which are approved by SIRA.

Complaints registers

icare HBCF and the claims manager each maintain a register where they record complaint details. This register details the nature of each complaint and dispute and how and when it was resolved. The register will include details of how complaints and disputes were managed in accordance with the service standards listed in section Service Standards on page 12.

The scheme agent must make information from their complaints and disputes registers available to icare HBCF when requested. icare HBCF analyses complaint register information and creates reports for compliance and as guidance for making enhancements, reducing complaints, and improving the customer experience.

You can complain about a decision or the level of service provided by icare HBCF or by the scheme agent on behalf of icare HBCF, if you do this within reasonable timeframes.

Make a complaint about service or compliance

icare HBCF and the claims manager must provide services according to legislative and regulatory guidelines, and relevant icare HBCF manuals and processes (please refer to Supporting references on page 6). If you're not happy about the service you received or you don't think that we followed all the regulations and guidelines, you can make a complaint to the claims manager, directly to icare HBCF, or to SIRA.

Please refer to the Service Standards on page 12 for details on how long this review process takes.

Request a regulatory compliance review

SIRA can review icare HBCF's compliance with the legislation, guidelines, and policy. If you have any concerns about icare HBCF's conduct, or the conduct of our claims manager and their service providers, please contact SIRA:

- Phone: 13 10 50
- Email: contact@sira.nsw.gov.au
- Website: <https://www.sira.nsw.gov.au/disputes-and-complaints/home-building-compensation-disputes>

Lodge a complaint with SIRA

You can lodge a complaint with SIRA about how we handled your Eligibility or Premium Determination or any other aspect of our service.

SIRA contact details:

- Phone: 13 10 50
- Email: contact@sira.nsw.gov.au

Appeal a decision—request a review

If you don't agree with the claims manager's claim decision, you can appeal the decision and request a review. You must request a review no later than 30 days after the claims manager provides you with written notice of the decision.

You must state the issue in writing unless you have already provided a written statement. Your request will be lodged as a dispute.

Please refer to the Service Standards on page 12 for details on how long this review process takes.

Appeal to NCAT

If you do so within 45 days of receiving the claim decision, you have the right to appeal the decision through the NCAT or the District Court or Supreme Court (depending on the size of your claim). If the amount involved exceeds the \$500,000 jurisdictional limit of the Tribunal, the claims manager will advise you of your rights to appeal to a court.

For more information, please go to the NCAT website:

<https://www.ncat.nsw.gov.au/ncat/how-ncat-works/how-to-apply.html>

Lodge a dispute about the review outcome

If you're not satisfied with the outcome of the IDR process and you still dispute the decision, you can ask the Dispute Resolution Officer to escalate the issue to icare HBCF as a dispute. The Dispute Resolution Officer must formally submit a written referral to icare HBCF within three business days. The referral should include a recommendation or a submission and all case information, including supporting documentation.

The claims committee will consider the submission, make a decision, and send written notification of the decision to the claims manager and the claimant within five business days. The claims manager must implement the decision as soon as practicable.

The decision notification will include contact details for icare HBCF if you require more information about the decision, and advice that all internal dispute handling mechanisms have now been exhausted.

Note: Any decision made by the icare HBCF Claims Committee will automatically reset the 45 days to appeal to NCAT.

To find out how long it takes to consider a dispute and reach a decision, please refer to the Service Standards on page 12.

- If you're not happy with the result of a claims dispute, you can lodge an appeal with NCAT. Please refer to Appeal to NCAT on page 12.

The claims manager will also provide information about SIRA's service and compliance complaint mechanisms available on its website at www.sira.nsw.gov.au. Please refer to Request a regulatory review on page 11.

Service Standards

SIRA's Home building compensation insurance guidelines require icare HBCF to meet certain service standards. Customer service should also be in line with the Customer Service Conduct Principles that SIRA implemented in November 2019. For more information about the guidelines and principles, please refer to Supporting references on page 6.

Service standards define information requirements and time constraints for various steps in icare HBCF processes, such as claims management and complaint and dispute handling. For example, icare HBCF must acknowledge receipt of a claim or an enquiry about a claim within five business days of receiving it.

These service standards are defined in the following document and are reproduced below:

- HBCF Claims Information for Homeowners

Note: If icare HBCF believes we cannot meet the service standards before the due date for delivery, we must communicate immediately with the homeowner, builder, or broker to explain why and agree on a different timeframe. Communication of a delay does not alter any rights regarding a complaint and doesn't change the processes or obligations defined in this document.

Action	Service standard	Claims manager requirement for completion
Response to your initial enquiry	The claims manager will send you a claim form	Within two business days
Receipt of loss notification	The claims manager will acknowledge receipt of a loss notification and advise that the prescribed claims information is required before claim can be assessed	Within two business days
	The claims manager will register the loss notification on the system	Within two business days
Receipt of claim if prescribed claims information is incomplete	The claims manager will notify you in writing that all information has not been received and advise exactly what further information is required to process the claim	Within five business days
	The claims manager will register the incomplete claim as a notification on the system	Within five business days
	The claims manager will raise an initial case reserve on the system	Within five business days of registration
Follow up of prescribed claims information	If the claims manager has not received all the prescribed claim information from you within five business days of receiving some prescribed claim information, the claims manager will inform you in writing of the additional information that is required	Within 24 hours after the expiration of five business days from the initial request
Receipt of claim if prescribed claims information is complete	The claims manager will acknowledge receipt of a claim, advise of the next steps to be taken to assess the claim. The claims manager will inform you that the claim will be deemed as accepted or declined within 90 days, unless you agree to an extension of time for the claims manager to determine the claim.	Within five business days
	The claims manager will register the claim on the system	Within five business days
	The claims manager will raise an initial case reserve on the system	Within five business days of registration

Action	Service standard	Claims manager requirement for completion
Determination of builder's status	If at any time the claims manager forms the view that the policy has not been triggered, the claims manager will inform you in writing and provide details of the source of that view	Within five business days
	The claims manager will inform you whether it accepts that the status of the builder has been established so that the policy is triggered or alternatively whether further information is required	Within 30 business days of receipt of claim
Appointment of service provider	The claims manager will appoint any necessary technical consultant	Within five business days of registration of the claim
	After appointing any service provider, the claims manager will notify you and provide the contact details for the provider	Within five business days
Determination of claim	The claims manager will either accept or deny the claim	Within 90 days after receipt of all prescribed claims information (or as extended by agreement)
Supply of consultants reports to claimants	The claims manager will provide you with copies of reports from service providers that are relied upon to reject a claim or reduce the liability in respect of a claim. There is no requirement to disclose information where: it is confidential information provided by third parties the information cannot be disclosed under law the information is subject to legal professional privilege.	Within 10 business days of receiving a written request
Review of case reserves	The claims manager will review case reserves whilst investigations are continuing, and evidence is being obtained to enable a determination of indemnity and liability to be made	Every four weeks or within five business days of receipt of new information
Review of claim	The claims manager will review the claim	Every four weeks or within five business days of receipt of new information
Communication with claimant	The claims manager will return all telephone calls with the claimant or their representative	Within one business day
	The claims manager will keep the claimant informed about the progress of the claim in writing	Every month
	The claims manager communicates to you at least three days before the expiry of a service standard when it believes that it cannot meet its claim service standards and will indicate its likely response time and the way in which the claim will be handled	At least three days prior to expiration of service standard

Action	Service standard	Claims manager requirement for completion
Claim dispute or complaint	The claims manager is to consider your complaint through their internal IDR	Within 15 business days of lodgement of the complaint
	icare HBCF claims committee must consider any escalated dispute	Within 10 business days of receiving a request to review a complaint
Payments	The claims manager will action the payment of accounts and settlements	Within 10 business days or within the timeframes specified by NCAT or a court
Actioning icare HBCF instructions	The claims manager is to action any instructions issued by icare HBCF	Within two business days of the instruction being issued
Responding to queries from icare HBCF, SIRA or NSW Fair Trading	The claims manager may regularly receive enquiries from icare HBCF, SIRA or NSW Fair Trading. Some may be of a claims specific nature while others may be related to scheme policy	<p>Within two business days of general requests</p> <p>Within four business hours for urgent queries (such as where there is ministerial involvement)</p>
Finalisation	The claims manager will finalise a claim: <ul style="list-style-type: none"> once the claim has been fully investigated when they have determined the liability and amount (if any) when they have paid you and relevant service providers. 	Within 14 days of last action on claim

icare HBCF Claims Quality Assurance Framework (QAF) process enables us to continuously review the quality of reports received along with the accuracy of decisions made. This ensures a continuous improvement in overall performance and accuracy of both the Claims Manager and Service Providers.

Claims committee oversight and regulation

SIRA’s Home Building Compensation (claims handling) insurance guidelines require icare HBCF to have documented complaint and dispute processes. As part of these processes icare HBCF has established an icare HBCF Claims Committee.

icare HBCF Claims Committee constitution

Membership of the icare HBCF Claims Committee will be constituted as follows:

- General Manager, GL Claims (Chairperson)
- icare HBCF Claims Manager.

The committee may access independent technical and legal advice as and when required.

Matters for the Claims Committee

The icare HBCF Claims Committee may consider the following types of matters:

- disputes over claims decisions that have been through the IDR process but are still disputed
- claim matters that the claims manager must refer to icare HBCF under the Delegations of Claims Handling Authorities
- other matters or classes of matters that icare HBCF refers (or the claims manager refers when icare HBCF provides them with written instructions to do so)
- reviewing and recommending changes to the Claims Manual and Claims Information for Homeowners when requested by icare HBCF.

The icare HBCF Claims Committee will meet as and when required. Reviews of claims decisions may be undertaken out-of-session by way of telephone and email with decisions confirmed at the next formal meeting of the committee.

Claims Committee process

The icare HBCF Claims Committee shall make its decisions considering prudent insurance industry practice and after giving due consideration to the claims manager's submissions and/or recommendations as well as submissions by, or on your behalf.

The icare HBCF Claims Committee will review the claims manager's decision or recommendation to ensure that the claims manager acted reasonably and in accordance with the policy and relevant legislative provisions (icare HBCF's Claims Manual, Claims Information for Homeowners, relevant SIRA Guidelines, and the NSW Government's Model Litigant Policy, etc.). The icare HBCF Claims Committee will then determine the dispute and notify the claims manager of their recommendation.

The claims manager will implement the decision as soon as practicable. Where icare HBCF's decision is different to the previous decision, the claims manager will update the outcome of the dispute to reflect the new decision. The claims manager will notify you of the decision and include contact details for icare HBCF in case you need more information about the decision.

Other matters for the Claims Committee

The Delegation of Claims Handling Authorities defines matters that the claims manager must refer to icare HBCF. The claims manager should refer these matters to icare HBCF for a decision as soon as practicable. The claims manager's referral should include their recommendation and a supporting submission incorporating relevant background material. The Delegation of Claims Handling Authorities is defined in the Claims manager internal authorities section of the HBCF Claims Manual.

If there are any matters that fall outside the scope of the HBCF Claims Manual or any icare HBCF instructions, guidelines or written directions, the claims manager should refer these matters to icare HBCF. icare HBCF or the claims manager may sometimes refer other matters or classes of matters to the Claims Committee for consideration.

Disclaimer

Please note that this document contains general information only and cannot be relied upon for any other purpose. The intention of this document is to provide general guidance in plain language, however there are a variety of documents, guidelines, legislation, and other information to which you should refer rather than relying on this document. icare HBCF will not accept any liability arising from reliance or use of this document.

