

The failure of or at best the reluctance of insurers to make payments under policies to householders is despicable. In my experience working for a prominent law firm in Sydney in its Workers Compensation practice, it was evident that the most reputable of insurance companies did whatever they could to avoid paying out on policies that were taken out and maintained by policy holders in good faith. The mantra of the insurers seemed to be “If we delay long enough, the worker will die, get better, go broke, or simply give up. As a last resort, after six months we will take the matter to court.”

In the recent floods experienced primarily in Queensland householders who took out policies for buildings and or contents insurance were accepted by insurers, who took their premiums without question, but then hid behind the fine print and fine distinction of what constituted ‘riverine’ flooding, ‘flash’ flooding or any other kind of flooding.

Much has been made about the need for insurance companies to establish a standard definition of the word ‘flood.’

There is no need for this. Other than Insurance Assessors and Lawyers, the population at large knows what a flood is. We all experienced one this year. It doesn’t matter if the water came out of the sky, up from a drain or overflowed from a river.

What is needed is a Natural Disasters Commission similar to the New Zealand Earthquake Commission that has been established for many decades. Although that Commission was originally set up to compensate for war damages as well as earthquakes, it also covered a variety of natural disasters including floods, landslips, and tsunamis.

In the case of the NZ model, levies are paid by policy holders to the Commission, which means that compensation is available to renters as well as homeowners, through contents insurance as well as buildings insurance.

Although a requirement of coverage by the EQC is that a claimant has private insurance, in the case of the first Christchurch earthquake, the EQC made payments to individuals who had no insurance cover at all. This is an example of inclusive behaviour and attitudes rather than exclusive ones. Instead of attempting to find a loophole to avoid payment, the EQC found ways to pay victims.

On the subject of funding by way of a levy, it would seem to me that despite the popularity of the levy proposed by the Commonwealth, a more appropriate way to fund the Commission would be by imposing a levy on the profits of the insurance companies: the very organisations who’s refusal to honour good faith contracts have brought about the need for a levy in the first place.

The insurance companies should be made to pay. Instead of kowtowing to the insurance lobby allowing them to contemplate what the meaning of a flood is, and then only applying that to future policies the Government should impose the levy on them for their deceptive and misleading business practices.

In summary, the Commonwealth should establish a Natural Disasters Commission. This Commission would be funded by levies on building and contents insurance premiums as well as insurance company profits. Payments would be made by the Commission to householders according to their needs for repair and replacement. The Commission should have the discretion to make payments to householders who do not have insurance or whose insurance companies refuse to pay. In cases where the Commission pays because the insurer has refused the Commission would have the duty to seek reimbursement from the insurer. The Commission would cover any natural disaster as *simply* defined in a schedule to the legislation but including earthquake, volcanic eruption, landslip, flood, tsunami, bushfire, and cyclone. The funds raised by the levies should be held by the Commission or invested as liquid assets not in traditional investments held by insurance companies for obvious reasons: buildings cannot be sold when they are flooded, falling down, burnt to the ground etc. As at the 3 April 2011 over NZ\$800 million has been paid out by the EQC. Clearly such a Commission is more effective at compensating victims in despair than insurance companies who continue to evade their obligations.

For more information on the NZ model visit <http://www.eqc.govt.nz/>