

# Improving Insurance Contract Law

We need your input on proposed changes to insurance contract law.

## Our objectives for the reforms

We want to ensure that:

- Insurers and people getting insurance are well informed and able to transact with confidence.
- Interactions are fair, efficient and transparent.
- Barriers to insurers providing insurance are minimised.
- Consumers are protected.

Submissions are due by  
**28 June 2019.**  
Have your say at  
[mbie.govt.nz/insurance-contracts](http://mbie.govt.nz/insurance-contracts)

## Disclosure of information to insurers

### The problems we are trying to solve

At the moment, you must tell insurers everything that is relevant to their decision to offer you insurance or how much they charge you in premiums. These are called your disclosure obligations. If you don't, insurers can cancel or void your insurance and refuse to pay claims.

We have found that people often do not understand what information must be disclosed and that the consequences for not disclosing the information can be very harsh.

### Options we are considering to address these problems

<b>Option 1: Change the law so that you would simply have to answer insurer questions truthfully and accurately</b>	It would be easier know what you have to tell insurers, but getting insurance might take longer because there would be more questions to answer.
<b>Option 2: Change the law so that you would have to disclose what a reasonable person would know to be relevant</b>	The disclosure requirements would be more reasonable, but it might still be hard to understand what needs to be disclosed.
<b>In addition to option 1 or 2: require life and health insurers to use third party records (eg medical records) to underwrite risk</b>	You might have to disclose less information because insurers would have to check information from elsewhere, but insurers would incur higher costs which they would probably pass on to you.



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**In addition to option 1 or 2: have lighter consequences for innocent failures to disclose information (but retain serious consequences for fraud, deliberate lies, and reckless non-disclosure)**

This would incentivise consumers to be careful when applying for insurance, while protecting consumers in cases where their non-disclosure was not that important to the insurer's decisions about their claim. However, insurers may incur higher costs (for example, to prove that a non-disclosure was deliberate or reckless).

## Which options do you think are best and why?

## Unfair contract terms

### The problem we are trying to solve

Unfair contract terms are prohibited under the Fair Trading Act. However, the Act also lists terms in insurance contracts that cannot be ruled to be unfair. This includes the risk insured against and the sum insured.

We are concerned that this arrangement does not protect consumers from genuinely unfair terms.

### Options we are considering to address this problem

**Option 1: Remove the insurance specific exemptions to the unfair contract terms rules in the Fair Trading Act**

Consumers could have greater confidence that their contracts do not contain unfair terms, but this would create a risk that some critical terms in insurance contracts could be declared unfair. Plus, insurers may increase their premiums to cover their risk, increasing costs for consumers.

**Option 2: remove the insurance specific exemptions but change the unfair contract terms rules in the Fair Trading Act so that it is easier to understand how the rules apply to insurance contracts**

Consumers could have greater confidence that their contracts do not contain unfair terms, but this would create a risk that some critical terms in insurance contracts could be declared unfair. Plus, consumers and insurers would have more certainty and clarity about how the unfair contract terms laws apply to insurance contracts.

## Which option do you think is best and why?

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## Making it easier to read and compare policies

### The problem we are trying to solve

Insurance is complex and policies are long. Many consumers find it difficult to read and compare policies.

### Options we are considering to address this problem

<b>Require plain language insurance policies</b>	Consumers might understand their policies better, but it may be difficult for insurers to accurately re-write complex policies into plain language.
<b>Require core policy wording to be clearly defined</b>	Consumers might understand their policies better, but there might be some difficulty deciding which terms are "core", and the definitions would add to the length of policies.
<b>Require a summary statement to be provided</b>	Consumers might understand their policies better, but it may be difficult for insurers to accurately summarise complex policies.
<b>Require insurers to work with third-party comparison platforms</b>	Consumers would be able to compare policies more easily. We are interested in feedback on how this could work in practice, especially in the general insurance industry where comparison websites do not currently exist.
<b>Require insurers to disclose key information</b>	Consumers might understand their policies better because they would have more information.

### Which options do you think are best and why?