

Submission on discussion document: Insurance contract law review

Your name and organisation

Name	s 9(2)(a)
Organisation	

Regarding consumers' disclosure obligations

Were you aware of your general duty to disclose all material information when applying for insurance, and that the duty goes beyond the specific questions you are asked in your application for insurance?
<i>Kind of - although how do I provide an suitable answer when I don't know the question.</i>
If you were aware of your duty to disclose material information, who informed you of this duty?
<i>Hearing from everyone how they were declined for simple ommissions.</i>
When applying for insurance, do you understand what material information you need to give the insurer so they can assess the risk of providing you with insurance?
<i>I complete the questions they ask.</i>
Do consumers understand the potential consequences of breaching their duty of disclosure?
<i>No. But maybe the question should be do the insurers understand that by offering and accepting the policy - and taking payment, they should be bound to offer the service agreed to.</i>
Have you ever breached your duty of disclosure? What consequences were there for you in terms of the insurance cover you were able to obtain under the policy following the breach?
<i>Not that I am aware of.</i>

Regarding conduct of insurers

What do you think fair treatment looks like from both an insurer's and consumer's perspective? What behaviours and obligations should each party have during the lifecycle of an insurance contract that would constitute fair treatment?
<ul style="list-style-type: none">- <i>I think the insurer has an obligation to complete due diligence before accepting the payment of premiums. Once they accept they should honour the cover.</i>- <i>The insurer should only be able to decline a claim if information materially relevant to</i>

the claim was not disclosed.

- The insured has the obligation to disclose to the best of their knowledge. But, it should be accepted by the insurer that the average insurance holder does not hold:
 - A medical degree, so cannot provide detailed medical details.
 - An engineering degree, so cannot provide detailed building, site, and repair details.
 - In short - the insured are not, and cannot be expected to be experts across all given fields to which they insure. They can and should only do what is reasonably expected.
- The onus should be on the insurer to get the information required before granting coverage and collecting premiums.

What has your experience been of the claims handling process? Please comment particularly on:

- information from the claims handler about:
 - timeframes and updates on timeframes
 - reasons for declining the claim (if relevant)
 - how you can complain if declined
- The handling of complaints (if relevant)

In general my personal experience has been good in terms of claims handling. But then I have only had relatively minor claims that are very easily identified.

Have you ever been sold an insurance product that was inappropriate for your circumstances? Or are you aware of this happening to others?

Yes, not to myself, but to others.

Have you ever felt undue pressure from an insurer or insurance intermediary (such as an insurance broker or salesperson) to buy or renew an insurance policy?

I have had the hard sale – i.e. trying to sell me pointless policies

I have also found they tend to emphasise the things they will do, while minimising and trivialising the disclosure.

i.e. They tend to use language such as: Just try your best to fill it out, don't worry if you don't get everything - we can check with your doctor.

Regarding difficulties comparing and changing providers and policies

When considering the purchase of insurance, what sources of information do you draw upon to make your decision? (e.g. comparison websites, talking directly to different insurance providers, talking to an insurance broker or financial adviser)

It's basically impossible to compare as every company has countless pages (virtually novels) of

exclusions.

How long do you think you typically spend reading an insurance policy before you purchase it?

I always read the whole policy. Some of them can take a very, very long time.

Do you think you have a good understanding of the insurance policies you currently hold?

As good an understanding as can be expected given I don't have a law degree or background in insurance.

If not, what is the main barrier to you understanding your insurance policy?

I am not an insurance expert. Look at the relative differences in who writes them vs who reads them.

Insurer

- *Whole teams of policy experts working full time on what is/is not included, and how they interpret it.*
- *Legal experts checking every detail, wording, and legal interpretation*
- *Pricing and risk experts working out the likelihood of a claim.*

Consumer

- *A single individual, usually with none of the expertise above (or access to the expertise without significant cost)*

Have you ever been in a situation where you thought you had a certain level of cover under your policy, but when you went to make a claim found you were not covered? If so, please provide us with a description of the situation.

Yes, twice

First: House was burgled, I had a replacement contents policy – but they refused to replace my stolen goods as they deemed them either too old, or excluded i.e. Software (Playstation games)

Second: a leaking hot water pipe caused damage to the floor. The leak was due to a split in the pipe, but insurance claimed the damaged floor was a result of "Gradual" damage so would only cover up to \$2,000. It seems pointless as the purpose of insurance is to cover the damage itself. Not the cost of replacing the split pipe – which we also had to cover ourselves.

Would you like to switch insurance providers? If so, what is your main barrier to switching?

Yes, barriers are:

- *Price (they charge more as we have made previous claims)*
- *Losing no claims discount*
- *Time and effort to redo all the forms – paranoia about disclosure.*
- *With regards to health insurance, "new" conditions – i.e. ones that have arisen while*

under the current insurer, are deemed as pre-existing (and therefore not covered) by the new insurer.

What, if anything, should the government do to make it easier for consumers to compare and change insurance providers and policies?

- *Doesn't matter what the Govt do, the insurance industry will find every loophole and utilise it to the detriment of the consumer.*

Regarding exceptions from the Fair Trading Act's unfair contract terms provisions

Are you aware of instances where the current exceptions for insurance contracts from the unfair contract terms provisions under the Fair Trading Act are causing problems for consumers? If so, please give examples.

Yes, why should they be able to hold all the power. No other business/employment/personal contract can.

More generally, are there terms in insurance contracts that you consider to be unfair? If so, why do you consider them to be unfair?

I consider most terms unfair as they are non-negotiable. i.e. all power resides with the insurer.

They also have the ability to change the wording at any time, including adding exclusions (without reducing the premium)

They can still decline cover after taking payment (made in good faith with the expectation of cover)

Other comments

We welcome any other comments that you may have.

In general insurance is something we (consumers) are forced to have by virtue of it being compulsory to get a mortgage.

We have no say, and even a minor fault in the disclosure can void a whole policy.

We are also seeing (particularly in Christchurch) that insurers are not repairing to adequate standards, are making below market payments, and are generally fighting every single claim (with a much bigger legal budget than the average consumer).

I have very basic standard policies that cost me over \$4,000 per year in premiums (Which always seem to go up faster than inflation).

Considering I am likely to have insurance from 18-88. That is approx. \$300,000 at today's premiums. I doubt I will ever make that much in claims. So am left to wonder why I don't just self-insure.

A final comment would be that the fire service should not be funded through insurance. They should be their own Govt Dept like Health or Police. After all, most of the work they do is attending car crashes rather than putting out housefires – the only thing they are meant to do.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT