

# Submission on discussion document: Insurance contract law review

## Your name and organisation

Name	s 9(2)(a)
Organisation	NZ Citizen

## 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?
Yes. <i>Watching "Fair Go" I see programs where cover has been denied because of insufficient disclosure. In particular I have noticed difficulty in Life / Medical insurance. To fix the problem it should be mandatory for the insurer to obtain all relevant medial records of the insured person BEFORE the insurance is issued. If the insurance company doesn't conduct their review their right to use non disclosure as a reason to decline insurance should be denied.</i>
If you were aware of your duty to disclose material information, who informed you of this duty?
"Fair Go". It's usually in the proposal as well.
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?
No. <i>For example if I apply for car insurance and have previously driven over a nail and got a puncture should I disclose such a triviality? If I was seeking life insurance should I tell them about a tyre puncture in the car? The tyre could be damaged enough to catastrophically deflate resulting in an accident. This would cause damage to the car, and, if bad enough I could die resulting in both a life insurance and car insurance claim.</i>
Do consumers understand the potential consequences of breaching their duty of disclosure?
<i>Yes. It is a bit like insurance itself. It's a risk you take, hoping that the insurance company won't find out. However not disclosing because you don't know what to disclose is unfair.</i> <i>The proposal should declare all the things the insurance company wants to know. For example if they want to know what I ate for breakfast every day over say a 10 year period they should ask me. If I don't hold records of what I ate for breakfast my application to get insurance should be declined. Similarly if it's such a trivial matter they should take the risk of the</i>

*unknown upon themselves.*

*Having said that, there would be complaints that proposal was too long or too intrusive. On one Fair Go program I remember there was a question about heart problems. Seems the person filling out the proposal didn't understand the significance of the question which became clear when the insurance company obtained his medical records after a claim. Although the claim had nothing to do with the claimants heart they were denied cover because full disclosure had not been made*

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?

*No. None*

## 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?

*The actions and inaction of the insurance industry with respect to the Christchurch Earthquake seems to me to be an example of CORRUPTION. I do not have any personal experience of the Earthquake. My opinion is formed by the media.*

*Most of the problem seems to be founded the use of inexperienced, inept or CORRUPT assessors. I accept that the earthquake caused extensive damage and a lot of time and effort is necessary to fix the damage. I accept some clients might be difficult to deal with, such as the indecision about what is to be done with the Cathedral. However signing off houses as being repaired when only cosmetic work was done without under floor inspection reeks of the industry trying to wriggle out of a contract.*

*The onus should be on the insurance industry to pay for all damage and then try and reclaim their unnecessary payments through individual court cases (seems they prefer individual cases over class action) with all court costs being borne by the industry.*

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)

*Got a professional sander to sand a wooden floor. Turns out the floor was strips of ply over chipboard. Sander didn't know till they started work and damaged small section of ply. Insurance company wouldn't replace whole floor but made a part payment. Their part payment of the claim was resolved quickly. The payment didn't cover reinstatement so I tried to repair the damage myself, but was unsuccessful. House was sold some years later with damage still present. It wasn't worth complaining.*

*Driving behind a dump truck carrying rock a stone bounced out and hit my window screen, cracking it. Window screen replacement organised quickly and efficiently*

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

*Had a life insurance policy in the 1970's. I was sold it on the basis that I could use it to get a loan to buy a house. On approaching the insurance company, a few years later, I was told I could get a loan up to the amount that I had already paid in premiums, but at a higher interest than I was getting on the policy. I terminated the policy and considering there was a tax break for having the policy I got out of the contract about square. This was even though I got less than total of my premiums back.*

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?

*No*

## 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)

*My own experience. I work on the basis: Can I self insure. I have house insurance because I can't self insure and I don't think I could live on the streets.*

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

*An hour or two. I might call the vendor for explanation.*

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

*Only fair*

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

*I don't have enough understanding of Law.*

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.

*I guess the Sander damaging the floor mentioned above. I expected it to be fixed by the insurance company.*

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

*Yes- They're all the same though.*

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

*Something like Consumer Powerswitch*

## 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.

*No*

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

*Don't know enough to comment*

## Other comments

We welcome any other comments that you may have.

*No comment*

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