

Submission on discussion document: Insurance contract law review

Your name and organisation

Name	Alex Kat-	s 9(2)(a)
Organisation	Private consumer	

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>Yes, however I believe the insurance industry uses this to their own advantage and sometimes the level of recall is not reasonable in that it requires the customer to be almost an expert in the field and be aware of information that they are not aware of.</i>
If you were aware of your duty to disclose material information, who informed you of this duty?
<i>Most policies state it.</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>Yes and I believe where the info can be obtained elsewhere then the insurance company should be obliged to obtain it in acceptance of the policy. Eg medical records and council info.</i>
Do consumers understand the potential consequences of breaching their duty of disclosure?
<i>Yes, but not how a insurance company can use it against them.</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>Yes, firstly the insurance company used delay tactics in obtaining the information- taking a long time to provide consent document, taking a long time to request medical records and review it. Such that we were forced to take matters into our own hands in a desperate situation (ie travel insurance sickness) and the insurance company then used the clause "any costs must be preapproved" to avoid paying out. Had this information been obtained from the beginning we would not have had the long wait period.</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?
<i>Insurance should only be offered and paid for when the client will definitely be insured. This should be simple cover</i>

*There should be more responsibility on the insurer when
There should not be delay tactics taken by the insurer*

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)

Selay tactics- taking a long time to provide privacy consent document, taking a long time to request medical records and review it. Such that we were forced to take matters into our own hands in a desparate situation (ie travel insurance sickness) and the insurance company then used the clause "any costs must be preapproved" to avoid paying out. Had this information been obtained from the beginning we would not have had the long wait period.

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

Yes, 1. I found I wasnt covered due to a very specific and seemingly innocent exclusion which actually meant I wasnt covered for no good reason (to do with timeframes of how and illness played out for income protection). I believe the company had this clause for the sole reason to exclude people without it being obvious in the wording. They used their extensive experience to write a policy that would exclude many people where a person who hasnt experienced such an illness wouldnt be aware that its likely this cause would not be covered.

2. Policy is changed each year but the changes are not specifically detailed. Only a general reference requiring the person to read the whole policy, genrally people dont have time for this.

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?

[Insert response here]

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)

Mainly quotations online and reading the policy document, especially scanning for exclusive phrases. Unfortunately many of the policies have these phrases so its very difficult to find any

	<i>policy I am happy with.</i>
	How long do you think you typically spend reading an insurance policy before you purchase it?
	<i>Hours, but its often too time consuming to read the different policies from different providers</i>
	Do you think you have a good understanding of the insurance policies you currently hold?
	<i>No, because</i>
	<ol style="list-style-type: none"> <i>1. I dont know how trustworthy the insurer is since I've not made a claim with them. This is acutually more important and most policies have some kind of way out for the insurer, or if not, they can do it by a lengthy court battle and refusing to pay. I think this is more relevant than the policy itself.</i> <i>2. The poliy changes every renewal and I dont have time to throroughly read it all the time.</i> <i>3. I havent experienced the loss so I do not know how the specific clauses will affect me or exclude me at claim time.</i>
	If not, what is the main barrier to you understanding your insurance policy?
	<i>In general they just arent simple enough- it should simply be- if you get sick, we will cover you, if your house is lost, we will cover it. No exceptions.</i>
	<ol style="list-style-type: none"> <i>1. I dont know how trustworthy the insurer is since I've not made a claim with them. This is acutually more important and most policies have some kind of way out for the insurer, or if not, they can do it by a lengthy court battle and refusing to pay. I think this is more relevant than the policy itself.</i> <i>4. The poliy changes every renewal and I dont have time to throroughly read it all the time.</i> <i>5. I havent experienced the loss so I do not know how the specific clauses will affect me or exclude me at claim time.</i>
	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.
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	Would you like to switch insurance providers? If so, what is your main barrier to switching?
	<i>Not enough providers and competition. Too many differences and too much time to read the policies.</i>
	What, if anything, should the government do to make it easier for consumers to compare and

change insurance providers and policies?

1. *The government should have a standard policy wording that is the same for providers which gives better cover for the insured and without unnecessary or unfair exclusions.*
2. *Put more onus on the insurer to obtain the required info. ie obtain medical records or council info before they accept the policy rather than waiting for claim time. They will undoubtedly claim that this will add costs, but there needs to be more certainty and less way for insurers to get out of a claim. Its too easy for people to be declined insurance for omissions. How many policies are out there now where people think they are covered when they are not? Many I bet and in most cases its not a problem only because a claim wasnt made. Its worth the extra cost and I expect for all the time spent asking and reviewing the questions, the costs to obtain directly isnt that high.*
3. *The general public are far from experts in insurance and many dont have particularly high level english or are very literate. The general public should be able to take out insurance with confidence and the checks of information should be made by the insurer, with the insured providing consent, rather than relying on the insured to provide the info.*
4. *Force insurers to cover all people regardless of risk, and allow them to alter the price of the insurance. This would also prevent them to say they wouldnt have covered an individual based on new info.*
5. *Provide more government insurance such as extending ACC to cover income in the event of illness also. Given that tax is paid on peoples income, the government has some duty to provide taxpayers some protection in my opinion*

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.

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

Yes, they are full of small exclusions which are seemingly innocent but written with the insurers prior knowledge of how these situations generally play out, thus allowing them to exclude people.

Generally insurance should be far more clear cut, you pay to cover a general situation and it should be provided without exclusion. Also an insurer shouldnt be able to decline based on risk

but simply alter the premium.

The policies should be more standardised by the government and there should not be situational type exclusions allowed.

Other comments

We welcome any other comments that you may have.

Its should be remember that insurers primary focus is making money. They can use clauses and information gathering and the courts not only to to exclude liability in a claim but also in delay tactics to force the insured to cover themselves.

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