

**SUBMISSION TO THE ROYAL COMMISSION INTO MISCONDUCT IN THE BANKING,  
SUPERANNUATION AND FINANCIAL SERVICES INDUSTRY PERTAINING TO POLICY QUESTIONS  
ARISING FROM MODULE 6**

I have been a Financial Planner specialising in Life Insurance advice for almost 39 years. I am the Managing Director of a specialist Insurance advice practice with a team of seven including myself.

I am extremely proud of the work I and my team have done over the last 39 years and continue to do today. I can honestly say that our efforts have changed many lives for the better and we have numerous testimonials from clients attesting to this.

Below are my submissions in respect to specific questions arising from Module 6 but importantly, I would like to emphasise that whilst I readily acknowledge that there is much that is wrong and can be improved about our industry, there is significantly more that is right. I would suggest that a Royal Commission could be conducted into the misconduct in ANY industry or profession and the findings would enlightening to say the least. Our industry however is critical to the financial wellbeing of everyday Australians and significant care, thought and consideration should be given prior to changes being made.

It is my humble opinion that much of the ills of our industry would be down to the behaviour of people and with all the will in the world, you cannot legislate integrity.

**A. PRODUCT DESIGN**

2. Are there particular products – like accidental death and accidental injury products – which should not be sold?

No. In saying that, all insurance products should only be sold by Authorised Representatives of AFSL's capable of giving advice. Contrary to the evidence provided by a witness at the Royal Commission, there is a place for accidental death and injury policies in that there are people who are genuinely unable to obtain traditional products due to their medical history. Our practice is acknowledged by many as the industry leader in obtaining insurance for what we call "impaired lives". These are people with a history of a chronic illness such as Diabetes, Obesity, Mental Illness, Heart Disease etc and unfortunately, there are many people that we cannot assist. For these people, cover against death or injury by accident is better than no cover at all.

A current issue with this type of insurance is that it is being sold predominantly by the Direct market and they would generally not be interested or able to determine whether the client was absolutely unable to obtain traditional cover.

**C. SALES**

8. Should monetary benefits given in relation to life risk insurance products remain exempt from the ban on conflicted remuneration in Division 4 of Part 7.7A of the Corporations Act 2001 (Cth)? Why shouldn't the cap on such benefits continue to reduce to zero?

Yes they should absolutely remain exempt. This issue has recently been thoroughly addressed which has resulted in the Life Insurance Framework reforms being implemented.

Commission has been and continues to be the accepted form of remuneration for all insurance sales in the entire Western World. The consumer is generally not of a mindset to pay a fee for service in respect to the purchase and ongoing administration of their life insurance portfolio.

As previously stated, I have a team of seven highly competent people who spend the vast majority of their time performing non income producing tasks for our client base. Most of these tasks the client would be oblivious to and would balk at paying a fee for. These services include but are not limited to:

- Reviewing each policy renewal to ensure that the product in terms of quality and price remains competitive in the market and appropriate to the client's needs.
- Review of the client's needs by means of an analysis based on current financial and medical information.
- Discussions and negotiations with underwriters in order to obtain more favourable terms for the client.
- Discussions and interaction with the client and/or their advisers such as accountants and lawyers regarding their insurance portfolio and the provision of written information and responses to ongoing queries.
- Contacting clients regarding unpaid premiums in a timely and efficient manner in order to ensure that policies do not unwittingly lapse. This exercise could often be very time consuming due to a lack of response from the client.
- Liaising with insurers for general ongoing administrative maintenance issues such as clients changing address or bank account details.
- Last but not least, our most important function is the management of the claims process. This is the time when we deliver on the promise we made years previously. It is the sole reason that the insurance was purchased and our reputation is built upon that delivery. We handle this from notification to settlement in the most efficient and empathetic manner possible. This is always a time consuming process and more often than not, requires significant technical knowledge and expertise. We are able to provide numerous examples of claims that but for our expertise would not have been paid.

Our clients expect all of the above services for no payment. It is our firm belief and that of our peers that charging clients fees for these services would drive the majority of them to buy their insurance directly from insurance companies or from comparator websites. The Royal Commission has done a sterling job in highlighting the dangers of this option.

In addition, they would not receive advice from these sources and I think that the consensus is that not only are insurance policies complex products but the advice around quantum, type, ownership structures etc is also very complex and an essential service.

Most of all, they would not receive assistance in the event of a claim from someone acting on their behalf unless they sought legal advice and that would be at great cost.

In almost 39 years as a professional adviser I cannot recall a client who has objected to the manner in which we are remunerated.

9. Is banning conflicted remuneration sufficient to ensure that sales representatives do not use inappropriate sales tactics when selling financial products? Are other changes, such as further restrictions on remuneration or incentive structures, necessary?

I think that the Royal Commission has demonstrated that commission incentives has led to inappropriate sales tactics only in the Direct market. I think that these practices are long a thing of the past in the professional adviser space.

Genuine churning, as opposed to replacement of a product in the client's best interest, has I believe dropped to low levels and with controls and monitoring that have been put in place this should be obliterated soon but as I said previously, like in every industry, we will always have a few rogue advisers because integrity cannot be legislated.

10. Should the direct sale of insurance via outbound telephone calls be banned? If not, is the current regulatory regime governing the direct sale of insurance via outbound telephone calls adequate to avoid consumer detriment? If the current regulatory regime is inadequate, what should be changed?

Yes! In fact, the entire Direct industry in it's current format should be banned. As was demonstrated conclusively at the Royal Commission, Direct insurance via outbound calls are generally staffed by untrained staff, often transient tourists, working from a script. They are not providing a genuine service and tarnish the entire industry and the concept of life insurance itself.

Life and Disability insurance should only be allowed to be offered by licenced, trained, compliant and professional advisers.

11. Is Recommendation 10.2 from the Productivity Commission's report on "Competition in the Australian Financial System", published in June 2018, sufficient to address the problems that can arise where financial products are sold under a general advice model (for example, the sale of financial products to consumers for whom those products are not appropriate)? If not, what additional changes are required? Are there some financial products that should only be sold with personal advice?

Yes, all Life and Disability insurance should be sold with personal advice as they are complex products equally because they require regular review and expertise particularly in the event of a claim.

#### E. CLAIMS HANDLING

17. Should the obligations in section 912A of the Corporations Act 2001 (Cth) apply to all aspects of the provision of insurance, including the handling and settlement of insurance claims?

No, because it too can be a very specialised area but it generally does not entail the provision of advice.

18. Should ASIC have jurisdiction in respect of the handling and settlement of insurance claims?

No, as I cannot see where this would add value.

## Life insurance

19. Should life insurers be prevented from denying claims based on the existence of a pre-existing condition that is unrelated to the condition that is the basis for the claim?

No. The term "unrelated" could become very subjective. If someone does not disclose a bad back and it causes him to be unable to work for an extended period of time and he then get's diagnosed with depression is the mental illness unrelated? This is just one of many examples.

Furthermore, advisers would be required, in the best interest of their clients, to advise them to intentionally not disclose significant information as it would result in them being cover for unrelated conditions. I think that would open up the industry to increased claims and legal costs which in turn would result in increased premiums in a market that is already becoming progressively unaffordable.

20. Should life insurers who seek out medical information for claims handling purposes be required to limit that information to information that is relevant to the claimed condition?

No for the reasons above. We do not want to create a climate where intentional non-disclosure is condoned or recommended.

21. Should life insurers be prevented from engaging in surveillance of an insured who has a diagnosed mental health condition or who is making a claim based on a mental health condition? If not, are the current regulatory requirements sufficient to ensure that surveillance is only used appropriately and in circumstances where the surveillance will not cause harm to the insured? If the current regulatory requirements are not sufficient, what should be changed?

Surveillance of mental health patients should only be allowed to determine whether or not they are working for reward.