

# Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry

## Submission Response to Policy Issues Raised in Round 6

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1. My proposals for regulatory change relate mainly to some specific components of the Life Insurance industry, though they will still work in other sectors, such as general insurance. The main changes I propose are below, with additional commentary in some of the responses that follow.

- (a) The personal advice model is **based on 'know-your-customer'** so an adviser would necessarily arrange 2 or 3 meetings with their customer, to conduct a fact-find and establish needs. This process is professional, technical, time-consuming and comes at a not insignificant cost. There are also potential liabilities if advice is incorrect.

Conversely, the general advice model is not a know-your-customer model (and legally **can't** be), so arranging more than one meeting or taking more than one phone call can lead customers to think that their personal circumstances are being considered, so therefore receiving personal advice. However, when they call an insurer, they do expect and generally need guidance and assistance with their purchase decision.

Most people would say that buying insurance is a grudge purchase, even more so for life insurance, **so sellers need to push them along the process. It's a fine line between pushing along vs hard sale tactics.** Life insurance is still predominantly sold, not bought.

The changes I advocate here are:

- Getting rid of the notion that general advice is advice at all. For the **purpose of this document, let's call it 'Sales Assisted'** instead.
- Adjusting the definition of Sales Assisted, to allow very basic questions to be asked and answered, including the most often asked questions from **customers; "Is this product appropriate to me?" and "How much cover do I need?"**.
- The **'Sales Assistance' disclaimer** should only be required in one-to-one conversations. Such disclaimers are irrelevant in mass advertising, and cause confusion.

- (b) Continue with up-front commissions for personal advice situations, in line with FOFA caps, but limit general advice (**'Sales Assisted'**) situations to level commissions only.

### A. Product Design

2. The market should be left to determine the need and commerciality of the insurance products it develops and markets.

For some Australians, who perhaps cannot get the alternative underwritten life insurance, then accidental death and/or accidental injury may be better than nothing. Particularly if there are dependants or debts to cover.

However, in order to address the concerns raised about low-value products, the regulators could set minimum loss ratios to be priced for all products. This could be done through the Professional Standards.

- APRA could for example, insist on a minimum priced loss ratio for all products of say 50%.
3. Under the Life Act, life insurers cannot change the terms and conditions of a life insurance contract, unless the change in question benefits the policyowner. In this context, the public would expect improvements to be passed on automatically and at no extra cost, which many insurers and products do.

As an aside, the life insurer can increase rates for the whole portfolio should they see **the need, however the rate increase can't be seen to be linked to the benefit** improvement handout.

However, if a medical definition has been tightened by the insurer, due for example to improved diagnostics which might otherwise have opened the flood gates for trauma claims, when in fact those traumas were now prevented, then my **understanding is that the tighter definition cannot be updated to existing 'closed'** products, well not without a change to the applicable legislation.

This is a fundamental constraint of life insurance business, that the old policies remain guaranteed renewable, with those definitions, no matter how easier it might become to claim in the future. In these cases, the life insurer is left with no alternative but to increase premium rates for all customers to cover the cost of increased claims. Over time, this causes a spiral effect as some healthy lives leave the closed product for a cheaper alternative, while others remain to potentially claim and denigrate the portfolio further.

- There is no easy solution, but I would suggest a working group be formed to discuss alternative solutions, with representatives from the industry.

## B. Disclosure

4. Like any prescriptive legislation, it evolves with time. The current disclosure regime **wasn't built with Internet ads, banner ads, radio ads or even TV ads in mind.** In a direct sense, many consumers buy from ads, not from the lengthy, and nowadays legalistic) Product Disclosure Statement. This has been the case for many years in general insurance, arguably without any major issues. Instead, the PDS has become a (more plain English) policy document, that is part of the legal selling process, but it is now far removed from the pre-purchase disclosure document that the regulators might have intended be read before purchase.

In personal advice situations, the PDS is summarised by the adviser who asks and answers any questions by his/her client, and then the PDS is put away unread.

In general advice (**'Sales Assisted'**) situations, the PDS often arrives coincident with the sale occurring or soon afterwards. Only the hardy may then read it, and if different to their impression by the ads (or call-centre agent) may cancel within the free-look period.

We need to work to these criteria.

- 4.1. Let the PDS remain as the legal document, instead of (or as well as) the actual policy documents.
- 4.2. The PDS is sufficient to fully describe how the product works.
- 4.3. In a personal advice situation, the adviser is responsible for explaining the product and answering questions, ultimately to ensure the product meets the needs of the customer.

In a general advice ('Sales Assisted') context, sales can occur over-the-phone with a sales agent or directly online without any human intervention. In both cases, I propose that a 'Product Summary' has to be read either by the agent, or by the customer which describes the positives and negatives sufficiently for it to be understood. Australia has these already in health insurance. And like bank comparison rates, these product summaries should be comparable to a standardised version of that product.

- I propose we introduce a Product Summary that is no more than 2 pages. I would argue that if it needs more than 2 pages, then the product is unsuitable to be sold by general advice.
- Further, it must contain a comparison of that product vs a 'Life Insurance Comparison Product' ('LICP'). I would suggest that ASIC or APRA, with help from independent organisations in the industry, such as Rice Warner or Strategic Insights (I am not affiliated with either), could define the LICP every 3 years, or more often if necessary.

5. No comment.

6. No comment.

### **C. Sales**

7. No comment.

8. It costs more to sell life insurance, than say general insurance, because of the professional personal advice required and to overcome the inertia of the grudge purchase mentality. This often requires several meetings with a client up-front. Most of this energy is **days or weeks before a sale occurs, and sometimes sales don't occur**. Hence costs are skewed up-front, and someone needs to provide the finance to cover these costs. If not the insurers, then through bank loans, etc. Why create the extra layer of financing through third parties, if insurers are prepared to do it directly? **Therefore, let's** leave current caps in place.

9. All industries face conflicts insofar that the seller often earns commission related to the products they sell. Consumers generally understand this, and even if all conflicted remuneration was removed, would still believe it was present! In the wake of the Royal Commission, I believe the industry will react positively to address these concerns.

10. Outbound calls were expressed differently and more widely during the Royal Commission to their legal definition. Indeed, that wider description would be very difficult to define. In principle, the financial services industry should be no different to other industries. In fact, as a consumer, I have to say that the utility and telco industries are just as bad with outbound calling.

We could say that all industries should be subject to a minimum 2 call approach, with quote and Product Summary sent and received before the second call. I would suggest a minimum of 5 business days between calls, hence customers will always have a weekend to review the material.

Indeed, there is an argument to say that all industries that meet these criteria should follow these requirements:

- Contracts are, or appear to be, complex, and
- Payments are ongoing for 12 months or more.

11. This recommendation is well overdue. It was a shocking idea to start with. No one **I've met in direct insurance business likes using the word 'advice', when no advice is given**. Let alone having to insert misleading disclaimers to that effect in all material.

12. No comment.

**D. Add-On Insurance**

13. Add-on insurance under a general advice model should relate to the main product being sold, so there is nothing wrong with motor dealers selling car insurance. They could also sell consumer credit insurance too. In any case, the process needs to be emphatic that buying insurance is not mandatory, they can take away the quote and Product Summary and compare with other products in the market.
14. For products such as car insurance, they should be able to sell immediately.
15. **Many distributors haven't realised to date** that acquiring a sale via a two-step process or deferred sale is actually a better outcome, with a better customer experience and lower lapse rates. The market should gravitate to this, particularly post Royal Commission.
16. Refer to question 8, commission limits should depend on advice model. Higher for personal advice – level comms for general advice. Arguably, some add-on products could be capped, such as CCI is capped now.

**E. Claims Handling**

17. **Yes. Customers don't know the difference nor understand why part of insurance is a financial service, and why part of it isn't.**
18. Yes, they would have to if claims were included as a financial service.

**Life Insurance**

19. **It would be easy to say yes, and then adjust all premium rates for everyone's life insurance policies upwards to reflect the actual higher claims that would be paid. However, where does one draw the line? If a customer didn't disclose 1, 2 or 3 conditions that might otherwise have caused a loading, exclusion or decline of an application, then should a claim still be paid? As long as exceptions exist, then there will always be complaints from disgruntled customers or their loved ones. This needs more input from wider stakeholders. I suggest a working group is formed to consider this further.**
20. This depends on the answer to 19, and should be considered by that working group.
21. **The new rules (under LICOP) have only been going a year. Let's see how these evolve.** Unfortunately, there are plenty of fraudulent mental illness claims, so it remains unfair that the rest of the policyholders should pay for fraudulent claims.

**General Insurance**

22. No comment

**F. Insurance in Superannuation**

23. No comment.
24. No comment.
25. No comment.
26. No comment.
27. No comment.
28. I would like to see LICOP and ISVCOP merged and made compulsory. **Members of super funds and members of the public don't understand why differences exist. As an industry, we need to make rules consistent, transparent and fair for all.**

**G. Scope of the Insurance Contracts Act 1984 (Cth)**

29. Agree with publication.
30. Agree with proposal.
31. Not in a position to comment.
32. Not in a position to comment. Presumably there are resources in UK who can explain what the effect of the change has been. At first glance, it does not appear **as robust as Australia's duty of disclosure. The word 'duty' is stronger than** reasonable care for example.

**H. Regulation**

33. Arguably not. They come under different legislation, for good reason. However, LICOP could be merged with LISVCOP. Consumers deserve simplicity and consistency wherever possible.
34. No. If that was the intent, the Codes would be law and should be written into the relevant legislation or regulations. What is the point of the Codes?
35. No comment.

**I. Compliance and Breach Reporting**

36. Could compliance reports be included with existing reports statutory reports? Could APRA, ASIC and AFCA conduct joint reviews of insurers, and ASIC of distributors?  
**Let's not create more infrastructure and bureaucracy than needed.**
37. I would suggest waiting until the effects and consequences of the Royal Commission are done, before extending the rules further.
38. As per question 36, regulatory audits every (say) two years could help, including interviews with Boards, Management and staff and potentially even customers who have complained.
39. As this report was released prior to the Royal Commission, which in itself has caused significant consequences and disruption to the industry, then I believe there is time to deprioritise many of these recommendations.