

SURVIVE THRIVE



Natural Selection

Financial Services Forum

21-22 May 2018 • Hilton Sydney





Overseas Regulations - What might we see coming?

Robert Kerr

© < copyright name, company or Institute >

*This presentation has been prepared for the Actuaries Institute 2018 Financial Services Forum.
The Institute Council wishes it to be understood that opinions put forward herein are not necessarily those of the
Institute and the Council is not responsible for those opinions.*

Enquiry upon Enquiry

Inquiry into the life insurance industry

On 14 September 2016, the Senate referred an inquiry into the life insurance industry to the Joint Parliamentary Committee on Corporations and Financial Services for report by **30 June 2017**.

The committee welcomes individual stories that may identify widespread issues and recommendations for reform. The committee is not able to investigate or resolve individual disputes.

If you make adverse comment about people in your submission, the committee may reject such evidence or offer a right of reply.

Submissions close on **18 November 2016**.

On 29 March 2017, the Senate extended the reporting date from 30 June 2017 to **31 October 2017**.

On 14 September 2017, the Senate extended the reporting date from 31 October 2017 to **7 December 2017**.

On 15 November 2017, the Senate extended the reporting date from 7 December 2017 to report by **31 March 2018**.

Committee Secretariat contact:

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was established on 14 December 2017 by the Governor-General of the Commonwealth of Australia, His Excellency General the Honourable Sir Peter Cosgrove AC MC (Rt Hon).

The Governor-General issued Letters Patent which formally appoint the Royal Commissioner and outline the Terms of Reference for this inquiry.

The Commissioner, the Honourable Kenneth Maddison Hayne AC QC, is authorised to submit an interim report no later than 30 September 2018, and will provide a final report by 31 February 2019.

An online form is available to assist people wishing to make submissions to the Royal Commission about misconduct in the financial services industry. The form is available on the Public submissions page.

The first round of public hearings will commence Tuesday, 13 March 2018. More information is available on the Transcripts and hearings page.

Practice Guidelines are available on the Practice Guidelines page.

Media Guidelines for public hearings are available on the Media page. Members of the media should refer to these guidelines for further information on publication and access to evidence.

The Royal Commission has become aware that some people may have been receiving information that the Commission can make a decision to refund investors or provide compensation. Such claims are not correct. The Commission cannot resolve individual disputes. It cannot fix or award compensation or make orders requiring a party to a dispute to take or not to take any action.

The Royal Commissioner's initial public hearing was held on 12 February 2018. A video recording and transcript of the initial hearing is available.

Public submissions - Fast facts

As at 16 March 2018

Submissions received	Top 3 – submissions by industry	Main nature of dealings
2386	Banking 69% Superannuation 19% General Insurance / Intermediaries / Financial advice 8%	Personal financial Superannuation Small business finance



Fairness



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- More recently focus moved from Remuneration to Fairness
- Disconnect between views of stakeholders and the insurance industry believe is fair







Genetics



A glowing blue DNA double helix structure is shown against a dark blue background. The helix is composed of two intertwined strands connected by horizontal rungs representing base pairs. The lighting creates a sense of depth and highlights the three-dimensional structure of the molecule. The word "Genetics" is written in a white, sans-serif font in the bottom left corner.

Genetics

Genetic Test



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



A genetic test is a medical test that identifies changes in chromosomes and genes. These tests incorporate pathogenic variants in DNA. The results of a genetic test may confirm or rule out a suspected genetic condition or help determine a person's chance of developing or passing on a genetic disorder, or risk from that disorder.

(FSC Standard 11)

Several types of tests



- Predictive
 - Prior to symptoms indicate a condition is present
 - Monogenic conditions
 - highly predictive e.g. Huntington's disease.
 - Typically affect few families or low risk
 - Polygenic – propensity to get a disease
 - More common conditions – Alzheimer's, Type 1 diabetes, coronary artery disease, prostate cancer
 - But chances can be affected by environment.
 - May encourage change in behaviour or health screening

- Diagnostic
 - Confirm diagnosis
 - Aid / target treatment
- Research
 - Research project



Australia



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Default cover available in group insurance
- Direct insurance cover may also be available
- Rates are generally reviewable

FSC Guidance exists



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Don't ask Applicants to take Genetic Test
- May ask for existing Genetic Test results.
- But not if as the result of research and results not known to insured.
- Consider the potentially-beneficial effects of medical screening, early diagnosis and treatment on the Applicant's long-term health outlook.



“Have you ever had or are you considering having a genetic test where you have received (or are currently awaiting) an individual result?”

4 Recommendations

- FSC and Australian Genetic Non-Discrimination WP
Assess imposing a moratorium on predictive genetic information
- FSC Update standards on Family History and Genetic testing
- Life insurers banned from using predictive genetic information whilst standards are being updated
- Government to monitor development in genetics and testing, and if further bans or legislation are required



Canada



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Genetic Non-Discrimination Act passed 4 May 2017. Formally known as Bill S-201
- Covered use of genetics in general not specifically insurance



- Bans discrimination based on genetic characteristics
- Providers of good and services cannot
 - Request or require someone to undergo a genetic test
 - Request or require disclosure of previous or future genetic test results



UK Moratorium



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- First came into effect 1 November 2001
- Renewed each 4 years
- In place until 1 November 2019

- Customer can take Life, CI or IP without disclosing a predictive genetic test result with the exception of
 - Huntington's disease if
 - life assurance above £500,000.
 - Critical illness above £300,000
 - Income Protection above £30,000
- Do not need to disclose tests as a result of medical research

- High levels of cover available
- Does not apply to Diagnostic genetic tests related to a condition which exists.

- Insurers can apply to a panel of experts to add conditions where
 - monogenic (single gene disorders that are inherited in a simple fashion);
 - late-onset (symptoms are delayed until adult ages); and
 - high penetrance (a high probability that those with the gene will develop the disorder).



WHAT
DO
YOU
THiNK?





**Rising
Prices**
AHEAD

Price Increases



- During 2014-2016 saw significant increases in group insurance prices. Over 80% not uncommon
- More recently seen significant increases in retail prices
 - IP and Trauma
 - Level Premiums (where advisers expected premiums to not change)

Is it Fair?



Natural Selection

Financial Services Forum

21-22 May 2018 • Hilton Sydney



- Policyholders who are sick may not have option to move policy
- They may have been paying for cover for many years
- Unaffordable just as they need the cover



What maximum amount of
Price change would you
feel is fair?

Is it Fair?



- Made a pricing mistake – price too low.
- Give everyone the same price increase
- Only review when prices need to increase
- Should market price take it into account



UK



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



“A term is unfair if, contrary to the requirement of good faith, it causes a significant imbalance in the parties’ rights and obligations under the contract to the detriment of the consumer.”



- A term is fair if
 - Transparent and Prominent
 - Plain and Intelligible language
 - Brought to consumers attention in a way the average consumer would be aware of them

HOME » FINANCE » PERSONAL FINANCE » INSURANCE

Watchdog on alert over critical illness premiums

By Emma Simon and Paul Farrow
12:01AM BST 28 Jun 2004

The Financial Ombudsman Service has voiced concerns about the increasingly common practice of selling critical illness policies with reviewable premiums, rather than those guaranteed not to change for the life of the policy.

The FOS was questioning the "appropriateness of offering annually

Insurance
Finance »



Telegraph Home Insurance
Over 50? Save up to 25%
Get a Quote

The Telegraph
Bryony Gordon's
Mad World
Podcast

Watchdog urges providers and advisers to make critical reviewable rates clear

By **System Administrator** | 1st July 2004 12:00 am

The Financial Ombudsman Service has asked advisers and providers to be certain that consumers understand the implications of reviewable premiums as these sales have dominated the critical-illness market over guaranteed premiums.

In 2004 prices on new business started to increase significantly on Critical Illness

Association of British Insurers

**Advice on Practical Aspects of Unfair Contract Terms for
Non-investment Protection Policies with Reviewable
Premiums**

May 2006

- Industry guidance

- Reviews are fair if
 - Clear explanation of mechanism and reasons why premiums reviewed
 - Variation calculated in a fair and reasonable way
 - Statement of minimum and maximum amounts
 - If premium increase is a choice.

Policy should state



- When reviews take place
- Assumptions that can be updated
- Valid reasons that can lead to a change
- How changes calculated
- Any limit in changes
- Changes apply to group of policyholders not at individual level.
- Changes are fair and reasonable

Example policy wording - Australia

We may review any of our standard premium rates, for any of our policies, at any time and as a result premiums may increase or decrease. We guarantee any change in the premium rates will not apply before the first anniversary of your policy *commencement date*. Any changes to the standard premium rates will apply to all policies in that group, an individual policy cannot be singled out for an increase. Any additional loadings which we agreed upon with you will continue to apply.

We can change your premium

We work out premiums based on a number of factors (see page 29), including by reference to our standard premium rate tables. Those tables show, for each premium structure, factors and premium rates for each age, based on a person's gender, occupation and smoking status. We reserve the right to change the standard premium rate tables. Any such changes will apply to all owners of **plans** or **options** of the same type. If we do this, we'll notify you in writing before the changes come into effect.

Will your premium change?

Your premium may change each year at your Review Date.

We may change the way we calculate premiums at any time. Because of this, your premium may increase or decrease. However, we'll:

- give you one month's written notice before premiums change
- only change your premiums on the Review Date following any change, and
- not single you out for a change in premiums.

Premium rates and the policy fee are not guaranteed and we may review either or both up or down in the future, regardless of which premium type you select. Any change to the premium rates and/or policy fee will apply to all policies in a defined group. We will not single out an individual policy.

If we change the premium rates and/or policy fee (other than the annual indexation of the policy fee), we will give you at least 30 days notice in writing and the change will take effect from the next policy anniversary after the change is announced.

Example policy wording - UK

Reviewable premiums

Premiums are reviewable and **we** will not change the premiums for the first five years of the policy. Reviews will be carried out to determine whether the premiums will be changed at the fifth anniversary and every five years thereafter. This is to establish the amount of premium needed to continue to provide the amount of cover selected.

At a review **we** will assess the underlying assumptions relating to the expected future number and timing of claims made for this type of policy.

We will assess any change to premiums fairly. When **we** review the premiums, the factors **we** look at are:

- Number, timing and cost of claims **we** have paid;
- Number, timing and cost of claims **we** expect to pay in the future;
- Insurance industry claims experience;
- Expected impact of future medical advances; and
- Changes to applicable laws, regulations or tax treatment.

Your state of health or individual circumstances won't be a factor at the review.

We will contact **you** about the outcome of the premium review and tell **you** at least three months in advance about the options **you** have and what action **you** may have to take. If, after the premium review **we** recalculate **your** premium to within 5% of what **you** have already been paying, **your** premium will not change. Any change in the premium not taken into account at the premium review will be taken into account at future premium reviews.

Options at your premium review:

- a) **Your** premium reduces or stays the same. If the premium has reduced, **you** don't need to take any action and **your** direct debit will automatically be updated. If **your** premium stays the same **your** direct debit will remain unchanged.
- b) The premium increases.

If **your** premium increases **you** can choose to:

- Accept the increased premium. If **you** choose this option, **you** don't need to take any action and **your** direct debit will automatically be updated; or
- Keep **your** premiums the same but reduce the level of cover. If this is the option **you** want to take **you** will need to contact **us** within 30 days of being notified of a review by **us**. This will ensure there is sufficient time for **us** to process **your** request prior to **your** review date.

It is important to ensure the level of cover still meets **your** needs, as the option **you** select at each premium review cannot be changed. Regardless of the decision **you** make, **your** premiums will continue to be reviewed throughout the period of cover and **you** will be able to select a different option at any future premium review if **your** premium increases.



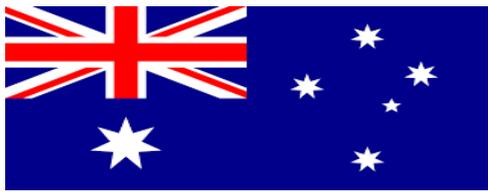
WHAT
DO
YOU
THiNK?



A magnifying glass is positioned over an open dictionary. The word "disclosure" is printed in a large, bold, black font across the center of the lens. The background shows various dictionary entries, including "disclaim", "disclaimer", "disclose", "discolored", "discolor", and "natural".

disclosure

disclaim (-klaɪm)
disclaimer (-klaɪmər)
disclose (-klɒz)
discolored (-kɒlərd)
discolor (-klɔːr)
natural



Duty of Disclosure



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



Duty to disclose to the insurer, before the relevant contract of insurance is entered into, every matter that is known to the insured, being a matter that:

- Insured knows is relevant to insurer accepting the risk and on what terms
- A reasonable person would think is relevant.

Do not need to disclose

- Factors which diminish the risk, or
- Common knowledge
- Insurer knows (or ought to)
- Insurer waives rights

Continuing Duty of disclosure

- Duty of disclosure continues until the contract is entered into

Non Disclosure

Fraud

If the person knew a fact was relevant and deliberately failed to disclose it.

contract that provides insurance cover in respect of the death of a life

Avoid Contract

Misrepresentation

Not innocent

More than 3 years

Life Cover

Pay

Not Life Cover

Vary Contract

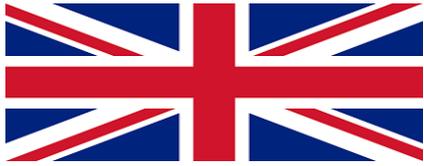
Within 3 years

Avoid Contract

Innocent

- Question ambiguous
- Untrue but reasonable person would have thought it was true
- Relevant but a reasonable person would not have thought it was relevant

Pay



Disclosure in UK



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Following consumer issues the ABI and FOS agreed a revised protocol

ABI Guidance

**Non-Disclosure and Treating Customers Fairly
Claims For
Long-Term Protection Insurance Products**

January 2008

“The severe remedy of avoiding a policy from outset should be confined to the most serious cases of non-disclosure”

Claim Information



- Legitimate reason to request data
- Early claim is not a legitimate reason by itself

- Should ask about reasons why information was incomplete or incorrect before deciding on non-disclosure.





Non Disclosure

Deliberate or Reckless

Careless

Innocent

Deliberate – customer knew or must have known the answer was incorrect and it was relevant

Reckless – complete disregard to accuracy and understood information was relevant

Is material? more than 50% or 1pm

No representation have resulted in a different underwriting outcome

Yes

- misrepresentation resulted from insufficient care – the failure to exercise reasonable care. This includes anything from an understandable oversight or an inadvertent mistake to
- Proportionate Remedy**, a reasonable person would have considered that the information was relevant to the insurer.
- The misrepresentation would have resulted in a different underwriting outcome.

The customer has acted honestly and reasonably

Pay claim in full

Avoid Policy

Pay claim in full

Continuing Duty of Disclosure



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



Insurers will need to have a particularly robust case for classifying non-disclosure occurring after the application was completed as deliberate or without any care



WHAT
DO
YOU
THiNK?







New Zealand Human Rights Act



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Prohibited discrimination
 - Gender including pregnancy and childbirth
 - Marital and family status
 - Sexual orientation
 - Religious or ethical belief
 - Colour
 - Race
 - Ethnic or National origin
 - Disability – physical or psychiatric disability or illness
 - Age
 - Political opinion
 - Employment status

Good and Services



- Unlawful on grounds of discrimination to
 - Refuse to provide goods, facilities or services
 - Treat persons less favourably in provision
- Allows clubs provided all members in club not discriminated

Insurance



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Not discrimination to provide **different terms or conditions** for gender, age or disability if
 - Based on actuarial or statistical data
 - Where no data reputable medical or actuarial advice or opinion (such as underwriting manual)
- Note: Still need to offer cover.

AGE



GENDER



**FACTORS
AFFECTING
LIFE
INSURANCE
PREMIUM**

**FAMILY
HISTORY**



**OCCUPATION
& HOBBIES**



HEALTH



LIFESTYLE



Restrictions on rating factors



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- EU – Gender
- EU – Contesting other factors - proof of actuarial and medical evidence
- US – Education and Occupation – are they a proxy for race?



Might we see more restrictions
on our ability to discriminate ?



WHAT
DO
YOU
THiNK?





Data
Protection



EU GDPR

- Requirement Apply From 25 May 2018
- Replaces rules across Europe – unified rules
- Applies to all companies that process data of individuals based in the EU

ARE GOOGLE AND FACEBOOK UNDERMINING EUROPE'S PRIVACY RULES?

**How Europe's 'breakthrough' privacy
law takes on Facebook and Google**

**Exclusive: Facebook to put 1.5 billion
users out of reach of new EU privacy law**

Personal Data



- Any information related to a person that can be used to identify them directly or indirectly, including
 - their name,
 - photo,
 - email address,
 - IP address,
 - bank details,
 - posts on a social networking site,
 - medical information,
 - biometric data and
 - sexual orientation.

More consumer rights



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Consent
- Data Erasure
- Access
- Rectification
- Data Portability

Consent

- Personal data can only be processed if one of following
 - Permission given for processing for a specific purpose
 - Necessary to fulfil a contract with the individual, legal obligation ...
- The purposes for which the consent is gained does need to be “collected for specified, explicit and legitimate purposes”

Right to be forgotten (Data Erasure)



Natural Selection
Financial Services Forum
21-22 May 2018 • Hilton Sydney



- Delete personal data and cease dissemination of data, and third parties processing data
- Data is no longer necessary for original purpose
- Consent is removed and data not required to be processed for one of the other reasons

Right for Access



- Is data from them being processed, where and for what purpose
- Who has the data been disclosed to
- How long stored for, and why
- If data not received from individual where was it received from

- Copy of personal data free of charge in an electronic format within one month(Data Subject Request)

More consumer rights



- Right for Rectification
 - Right to correct any incorrect data
- Data Portability
 - Right to receive personal data in a structured, machine readable format and then to transmit it to another data controller

Breaches



- Data Breaches
 - a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed
 - Where is likely to “result in a risk for the rights and freedoms of individuals”
 - Inform customer within 72 hours
- Penalties
 - Greater of €20m or 4% of global revenue



Hi Robert,

We're updating our User Privacy Notice to reflect changes we've made to strengthen your privacy rights. This is part of our ongoing commitment to be transparent about how we use your data and keep it safe. We have included changes to



robert.kerr@gmail.com



This month, we're updating our Privacy Policy to make it easier for you to understand what information we collect and why we collect it. We've also taken steps to improve our Privacy Checkup and other controls that we provide to safeguard your data and protect your privacy.

Nothing is changing about your current settings or how your information is processed. Rather, we've improved the way we describe our practices and how we explain the options you have to update.

Please Review Our Updated Privacy Policy and Terms

26 April 2018 at 6:20 am



WE ARE UPDATING OUR PRIVACY POLICY & TERMS



Institute and Faculty of Actuaries

www.actuaries.org.uk | [Members Log In](#) | [Contact Us](#)

10 May 2018

Dear Member

As part of our continuing commitment to ensuring you get the most from your membership we are asking that you check your contact details and newsletter preferences.

This will ensure you receive the news and information you want to see, take control of what is sent to you and help us keep your details accurate in line with the upcoming General Data Protection Regulation (GDPR).

Checking your preferences is simple and will take less than a minute. To get started [login to your account and visit the preference centre](#).

Your email preferences will ensure that future newsletters from the IFoA are personalised and relevant to your interests. You can read more about how we're [improving IFoA member emails here](#). To find out more about GDPR and the Actuarial profession watch our [GDPR webinar](#).

Some emails, such as those pertaining to membership, governance, volunteering roles and regulation are intrinsic to membership of the IFoA and hence cannot be adjusted in the preference centre. To find out more about how we manage and protect your data you can [read our privacy policy here](#).

You are receiving this email because the email address robert.kerr@gmail.com was subscribed to our email list.

Change which newsletters you receive from us, or [unsubscribe from all email newsletters we send](#).

Natural Selection
Financial Services Forum

21-22 May 2018 • Hilton Sydney



Darwin Rhodes/eTeam

2 May 2018 at 2:28 am

Found in Gmail All Mail M...

Good afternoon,

In compliance with the upcoming General Data Protection Regulation (GDPR), taking effect 25 May 2018, we would like to remove any doubt surrounding our retention of your personal details on our database.

We currently hold your information on our database, as you may in the past, or are currently working with us in regards to a new job search. We continue to securely and confidentially save your personal details so that, in the future, we can contact you regarding opportunities that might be suited to your career path. In order to comply with the new requirements of this law, and to ensure that we can best continue to serve in finding new career opportunities for you, I am seeking your approval for Darwin Rhodes/eTeam to retain your CV for our mutual benefit.

Updates to our Privacy Policy and Cookies Policy

Today at 12:01 am



Your Privacy Matters

Data privacy has never been more important, and in light of a new regulation coming into effect across the EU, Channel 4 has updated its Privacy Policy and Cookies Policy.

This new law is built around the principles of transparency and control, something Channel 4 has always taken pride in offering.

Milliman Logo

Opt in to continue receiving Milliman communication

We noticed you haven't opted in yet, but we'd like to keep in touch. Currently, Milliman sends you communication regarding recent research and analysis on important topics that impact your business. You may also receive invitations from us for webinars and upcoming events. We would like to continue to communicate with you.

Due to changes in European data protection and privacy regulations, we need your permission to continue sending you these communications. View Milliman's [privacy policy and terms of use](#).

It's quick and easy to ensure you continue receiving updates from Milliman.

[Opt in here](#).

If you have any questions about our opt-in process or how we manage or use your data, please email us at data.protection@milliman.com.

Warm regards,
Your Milliman team

milliman.com

Waitrose

OUR COMMITMENT TO YOUR PRIVACY

Dear Mr Kerr,

Your trust is important to us. So we want you to know we've updated our Privacy Notice to explain how we collect, store and handle your personal data.

Why we collect your data

We want to give you the best possible experience with Waitrose, John Lewis

Waitrose

ACT NOW STAY IN THE KNOW

Data protection law is changing on 25 May. Tell us now if you still want to hear from us, or we won't be able to contact you after that date.

YES, KEEP ME UPDATED

We don't want you to miss out on inspiration, offers, discounts and in store events. To keep hearing from



WHAT
DO
YOU
THiNK?





Natural Selection

Financial Services Forum

21-22 May 2018 • Hilton Sydney



Thank You