

**Disclosure in General Insurance:
Improving Consumer Understanding**

**Legal Aid NSW submission to
The Treasury**

February 2019

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Legal Aid 
NEW SOUTH WALES

About Legal Aid NSW

The Legal Aid Commission of New South Wales (**Legal Aid NSW**) is an independent statutory body established under the *Legal Aid Commission Act 1979* (NSW). We provide legal services across New South Wales through a state-wide network of 24 offices and 221 regular outreach locations, with a particular focus on the needs of people who are socially and economically disadvantaged.

We assist with legal problems through a comprehensive suite of services across criminal, family and civil law. Our services range from legal information, education, advice, minor assistance, dispute resolution and duty services, through to an extensive litigation practice. We work in partnership with private lawyers who receive funding from Legal Aid NSW to represent legally aided clients.

We also work in close partnership with LawAccess NSW, community legal centres, the Aboriginal Legal Service (NSW/ACT) Limited and pro bono legal services. Our community partnerships include 29 Women's Domestic Violence Court Advocacy Services.

The Legal Aid NSW Civil Law Division focuses on legal problems that impact most on disadvantaged communities, such as credit, debt, housing, employment, social security and access to essential social services. Consumer issues, including insurance, constitute the largest category of service for our Civil Law Division, with over 8,000 services in the 2017-18 financial year.

Legal Aid NSW welcomes the opportunity to make a submission to the Treasury's discussion paper about disclosure in general insurance. Should you require any further information, please contact:

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Introduction

Legal Aid NSW welcomes the opportunity to respond to Treasury's discussion paper about disclosure in general insurance.

In providing our response, we refer to our casework experience, and the specialist expertise of our Consumer Law Group and in particular our Disaster Recovery and Insurance Specialist.

Our specific comments on the issues outlined in the discussion paper are set out below.

Premium increases and component pricing included in renewal notices

Legal Aid NSW supports the recommendations in relation to component pricing and we provide our responses to relevant questions below.

Q1 It has become apparent from discussions with industry stakeholders that there is no generally accepted definition of component pricing. What is understood by the term "component pricing"?

Our understanding of the term "component pricing" is that the amount of the premium is broken down, for example in a table, to identify each item used to calculate the premium.

Q2 What is the goal of disclosing a breakdown of an insurance premium on a renewal notice (component pricing)? How would consumers use this information?

The goal would be to ensure consumers are better informed about their insurance policy and provide greater transparency about how their premium is calculated. It is for this reason that we also support the inclusion of the previous year's premium.

Consumers would be able to assess their risk and potentially moderate it, particularly if factors impacting the premium are listed (as suggested in response to question 6 below). It should also make it simpler for consumers to undertake comparisons between different insurers.

Q5 Would the disclosure of component pricing on policy renewal notices be appropriate for any other type of general insurance product other than home building and home contents insurance?

Yes. Legal Aid NSW considers that the disclosure of component pricing on policy renewal notices would be appropriate for car insurance policies as well.

Q6 What components would be most useful for consumers to see listed on their renewal notices? (For example taxes, amount attributable to flood cover)

It would be useful for consumers to have all components listed on their policy, in order to make it clear to the consumer what they are covered for and how much each component is costing them. It would be most useful for consumers to have the components with the highest value listed on their renewal notices first, followed by cover for natural disasters (fire and flood), cover for contents and portable contents, accidental damage and any government taxes.

In order to allow consumers to assess and mitigate their risks, the listed components should also specify how risk factors contribute to the calculation of the premium. For example, on home building policies, factors influencing the premium (such as the age of the house, the materials it is made of, any additions, its location, what the property is used for and how many people are living there) should be listed, along with information on how these factors increased or reduced the premium.

As noted above, we suggest that the previous year's premium also be included on the renewal notice.

Q8 Where the previous year's premium is disclosed, should it be just the premium, or should it include taxes and charges? Should the amount of the insured value for the previous year also be disclosed?

It would be beneficial for consumers to have the previous year's premium stated as well as a breakdown of all taxes and charges. We support the inclusion of the insured value for the previous year. This is suitable and helpful information for the consumer. The better informed a consumer is, the more likely they are to be appropriately insured for their needs. It would also encourage an insurer to be more forthcoming about the reason for any rises in the cost of a premium.

Q9 Would insurers prefer to provide further information along with a breakdown of component pricing (for example, a written explanation in the renewal notice, the opportunity to call their contact centre for more information)? Would these items be helpful for consumers?

For the reasons given previously, it would be beneficial to consumers for insurers to fully explain the breakdown of pricing in the renewal notice, particularly if there are any changes from last year's premium. As long as there are safeguards to ensure that this information is not false or misleading, the market should reward an insurer that provides this information as clearly and accessibly as possible.

While it would be beneficial for consumers to have access to further information if required, this should not take the place of full disclosure in the renewal notice.

Q10 Would the inclusion of the sum insured and any excess along with previous year's premium on renewal notices be more appropriate than only disclosing previous year's premiums?

Yes. We support the inclusion of the sum insured and any excess in addition to the previous year's premium on renewal notices. The provision of this information may assist consumers in calculating their new sum insured amount and it could also help in reducing the risk of unintentional underinsurance.

Q11 What are the benefits and costs in mandating a link to the ASIC MoneySmart website to be included in new quotes and renewal notices?

There are obvious benefits for consumers in mandating a link to the ASIC MoneySmart website in new quotes and renewal notices. The website provides independent, useful information for consumers which is likely to assist the consumer in making an informed choice about their insurance. The website also delivers this information to consumers by using Plain English or Easy English and is available in a number of different languages, providing greater accessibility to a range of consumers.

Standard cover – is the current disclosure regime efficient?

Legal Aid NSW supports the recommendation that there be an independent review of the current standard cover regime.

Generally, standard definitions and standard cover provide consistency and transparency in the insurance industry. This in turn allows consumers to more easily compare products and make informed choices about their insurance. Insurers should be required to offer products that provide standard cover, as prescribed in the *Insurance Contracts Regulations 2017 (Cth)*, as a minimum to ensure consistency and transparency.

In our casework experience, particularly in providing support to consumers following a natural disaster, we have found there has been a lack of understanding on the part of consumers around the issues of underinsurance and exclusions. Any inconvenience caused to insurers in providing standard cover is wholly outweighed by the risk to consumers of being unintentionally underinsured.

Standardised definition of key terms

Legal Aid NSW supports the recommendation that Government work closely with industry and consumer groups to develop and implement standardised definitions of key terms for general insurance contracts, and we provide our responses to the relevant questions below.

Q2 Should the Government mandate standardised definitions for a menu of key terms?

We support mandating standardised definitions for a menu of key terms. This would create more certainty for consumers and could increase their understanding of their insurance policies. It could also have the effect of making it easier for consumers to compare different policies.

Q3 If key terms were to be standardised, what definitions should the Government prioritise? What terms tend to be subject to dispute due to misunderstandings of meaning?

The Government should prioritise definitions around natural disasters, accidental damage, fixtures and fittings, and contents in the open air. Legal Aid NSW has had extensive casework experience following floods and bushfires in which these terms have been the subject of dispute due to a lack of clarity as to their meaning.

Q5 Should there be standard definitions for exclusions, for example wear and tear?

Yes, for the reasons given in Question 2 above. In particular, the definition of the term “malicious damage” should include a specific exception to this exclusion in circumstances of damage caused to a property as a result of domestic violence.

Review of the Key Fact Sheets

Legal Aid NSW supports the recommendation that the Government undertake a review of Key Fact Sheets (**KFS**), and we provide our response to the relevant questions below.

Q27 Should the KFS be extended beyond two pages to convey more information, similar to the short form PDS?

We are concerned that the KFS would become too lengthy and consumers may not engage with it if it was extended beyond two pages. The benefit of the KFS is that it provides a succinct summary of the policy but it is not a substitute for the Product Disclosure Statement.

Q28 The form of the KFS is currently prescribed in the law, should this be removed to allow industry to take a more innovative approach?

Standardisation of the KFS is important to better allow consumers to compare competing policies, improving competition. Government should continue to work with the insurance industry, in consultation with consumers, to ensure that relevant information is presented in a manner that is plain and easy to comprehend.

Q30 Are there items that would be more suitable for inclusion for consumers in a KFS?

The KFS could include ‘worked examples’ of specific clauses to demonstrate how these clauses operate in practice. For example, in a home and contents policy under which an insurer is able to elect whether to repair, replace or cash settle a claim; a worked example would highlight the amount the consumer would receive if their claim is cash settled. This could assist consumers to fully understand their entitlements under a policy. Inclusion of a few key examples could still be provided within the two-page limit for the KFS.

Q31 In the context of home building and home contents insurance, what are considered to be the key policy elements that consumers need to know about for them to make an informed decision when comparing across policies?

The key policy elements for home building and home contents insurance are the events a consumer is covered for and the exclusions under the policy (including exclusions under optional extras cover) and any exceptional clauses and their impact.

A modern approach to disclosure

Q35 Are there more effective or innovative ways to communicate information on policies to consumers?

Legal Aid NSW submits that consideration could be given to providing information to consumers through the use of infographics. Infographics take complex information and make it more comprehensible by using pictures, images and other design elements to communicate with consumers.