



ASIC

Australian Securities & Investments Commission

PJC Inquiry into the Life Insurance Industry – opening statement by ASIC Deputy Chairman Peter Kell

*A statement by Peter Kell, Deputy Chairman,
Australian Securities and Investments Commission*

*Parliamentary Joint Committee, Corporations & Financial Services
8 September 2017*

Introduction

I am pleased to appear before the Committee today.

With me are Senior Executive Leaders:

- Michael Saadat;
- Louise Macaulay; and
- Gerard Fitzpatrick.

Also appearing is Senior Manager, Emma Curtis.

Chair, I have a brief opening statement.

Life insurance is a vital product for Australian consumers and their families, helping them to manage risk and providing support, often at times of significant financial stress. However, ASIC's regulatory work, as well as concerns raised more generally by consumers, indicate that the life insurance sector has been falling short of the standards that we would expect. The sector is currently under an unprecedented level of scrutiny across the board.

ASIC's work covers the three major distribution channels for life insurance, as well as the over-arching area of claims handling. That is, our work is focused on:

- the adviser channel;
- direct life insurance; and
- group insurance through superannuation.

We have been concerned to ensure good consumer outcomes across all these channels.

In addition, we have a significant focus on claims handling. As you know we published a report in October 2016 on claims experience across the sector. This was the first time such an extensive set of life insurance industry claims data has been collected and analysed.

A quick overview of our work includes:

Claims handling

APRA and ASIC are jointly undertaking the development of a public reporting regime for life insurance claims outcomes. This will involve the collection of significant data from industry and will deliver, for the first time, a transparent public picture about claims outcomes and trends over time.

We are undertaking a 'deep dive' into TPD claims handling as we found this had the highest declined claim rate across the different products.

We will be commencing a review of the use of surveillance practices in claims management. While this review will have a particular focus on general insurance, we will also include life insurance matters, including around surveillance in cases involving mental illness claims.

Furthermore, the Government has agreed to consult on law reform that will remove the exemption that claims handling currently enjoys from the Corporations Act.

Direct insurance

We are reviewing the sale of direct life insurance – that is, without financial advice – and looking at sales practices, product design and the practices of firms. This will include consideration of whether the firm's culture supports good consumer outcomes in direct insurance.

Group insurance through superannuation

We are examining life insurance offered through superannuation funds and we are doing a much more detailed review of this in our project work this year.

This is a big area, and the compulsory nature of super provides complexity here. We know people may have cover they didn't know they had, or didn't want. Our project will look at disclosure to members and complaints handling, and will also look at issues of incentives to try to better understand the complex issues at play here.

Other agencies, such as the Productivity Commission and APRA, are also considering this area, as well as a coalition of industry participants. We will work closely with these other bodies in our project.

Life insurance advice and remuneration

There has also been recent significant law reform impacting on life insurance, with the remuneration reforms taking effect from 2018. This will affect how insurers pay for the distribution of life insurance both by financial advisers and through the direct channel.

We have a number of projects on foot in relation to advised sales of life insurance. Our 2014 review of retail life insurance advice found there were significant problems in this area, and we are still regularly seeing poor quality life insurance advice and inappropriate advice to switch life insurance in our surveillances.

In the lead-up to the reduction to allowable commissions for sale of life insurance, we are reviewing the advice given by advisers who have large numbers of policy lapses among their clients. I would like to note here that there has been recent media coverage of this issue which has not been accurate, and I would like to clarify our findings and our approach to this issue.

ASIC has undertaken a wide ranging review using data from life insurers to identify potentially problematic advisers. We have also used other intelligence and data available to ASIC, as we want to ensure that ultimately, we achieve the best outcomes for consumers.

This review has identified there are potentially large numbers of advisers who may be providing life insurance advice to clients which is not in their best interests. Similarly, in our other current and recent surveillances that look more broadly at advice, we are still seeing the high levels of poor life insurance that we have identified over the years.

Of the broad population of advisers with lapse rates that indicate higher risk of poor advice, we have chosen 10 advisers and conducted reviews of their clients files for the purpose of determining whether regulatory action should be taken against them. We are currently making a decision on these outcomes. We will *also* consider whether the licensees of these advisers should be subject to some regulatory action. And I want to be clear – our initial focus should *not* be taken as an indication that every other adviser identified through this exercise is problem free, or that there are no longer ongoing issues of concern more broadly in the sector.

This makes our work in this area critical, and compliance with the remuneration reforms a key priority. As requested by government, ASIC will conduct a review in 2021 to establish whether the reforms are successful in realigning the interests of advisers and consumers. Data collection from life insurers for the review will start in April 2018, and will be collected every six months for four years. The review will also include a surveillance to assess the quality of advice. We look forward to working with all stakeholders to raise standards in this area.

Law reform

Finally, on law reform, ASIC identified in our submission to your inquiry several areas where government could consider reforms to improve protection and outcomes around life insurance. It has been pleasing to see that all of these are now under consideration.

These include:

- opportunities to make insurance contracts subject to unfair contract terms provisions in the Australian consumer law;
- removing the exemption for 'insurance claims handling' from the Corporations Act so as to make claims handling a financial service; and
- to review ASIC's powers around the duty of utmost good faith, including penalties for breaches.

Chairman we are now happy to answer the Committee's questions.