

Role of the insurance ombudsman

The Insurance and Savings Ombudsman Scheme service is free and independent and handles complaints from customers about financial service providers.

Complaints can be about loans, superannuation, health and life insurance, car insurance, contents insurance, house insurance and investments.

One of the common disputes the Insurance and Savings Ombudsman (ISO) deals with is alleged non-disclosure to the insurer of all material information.

An insured party has a duty to disclose to the insurer all information that a prudent insurer would consider material.

Things are material if the insurer's decision to issue insurance, or on what terms, would be influenced by the information.

The insured's duty is breached even if the non-disclosure is unintentional.

It is very important to disclose all material information because non-disclosure allows the insurer



LEGAL MATTERS

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to avoid the policy (no-pay claims) and keep the premiums. Common things people "forget" to disclose are past medical conditions, driving offences, past claims, prior declined cover, modifications to vehicles (such as mag wheels that make a vehicle more of a target for thieves) so premiums will be higher.

Non-disclosure means you may lose your cover.

The ISO when investigating claims relating to non-disclosure often provides independent underwriters with the information disclosed and asks if the non-disclosed information would have altered the decision to offer insurance or the terms (for example, exclusions or price).

If the missing information would not have made a difference, then it is not a material non-disclosure.

You can find out if your insurer or financial services provider is a member of the scheme on the Ombudsman's website (iombudsman.org.nz).

Before you go to the ISO, you need to have gone through your provider's internal disputes resolution process.

If you cannot resolve matters internally you should ask for a notice of "deadlock".

You provide this notice to the ISO to show you have completed the provider's internal process.

If your provider is a member of the ISO scheme, you can complete the ISO complaint form.

Send that, plus your notice of deadlock and other supporting documents, to the ISO by post or email (PO Box 10-845, Wellington 6143, info@iombudsman.org.nz).

Once the ISO office receives your complaint, it will obtain your file from your insurer and make any other inquiries.

A case manager will investigate your complaint, discuss issues with you and get any expert assistance needed.

The ISO may try to resolve your complaint by negotiating mediation or conciliation. The ISO provides the conciliators and mediators and will ensure any resolution is fair and reasonable.

If a resolution is not agreed, the case manager will make a decision on the outcome of your complaint.

If both parties accept the outcome, this becomes final. Either party can request the ISO to review the outcome if new information or grounds exist.

The ISO will not review the matter just because you don't agree with the outcome.

If you do not accept the outcome, you can take your dispute to the Disputes Tribunal or to court.

The ISO's Award is binding on your insurer/financial services provider, which must comply with the outcome.

You are entitled to be represented throughout the ISO investigation process.

Check your insurance policy to make sure you know who the beneficiary is.

If you take out a life insurance policy, you can either be the beneficiary (the money will go to your estate on your death) or name someone else as the beneficiary (the money goes to them and is not part of your estate).

If you have chosen to name the beneficiary, it is important you know who you have named and change the policy if your circumstances change.

It is common for spouses and de facto couples to name each other. That is fine so long as you are still together, but if you separate or one dies you need to change your policy.

If you do not do so, the proceeds of the policy will still go to your ex-partner or their estate and usually that will not be your preferred outcome.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733 484. If you have an inquiry, email aknowsley@raineycollins.co.nz.