

# THE *facts*

## Life Insurance and Privacy in Australia

### Introduction

IFSA is the national not-for-profit organisation representing the life insurance industry to Government, regulatory agencies, consumers and the community.

This fact sheet explains how your private information is protected by a life insurance company if you apply for a life insurance product and/or enter into a life insurance contract.

### Life Insurance in Australia

For over 120 years the life insurance industry has provided financial security for individuals and families. Currently, about 6.3 million Australians are protected by individual life, disability and trauma policies. Life insurance provides an affordable way of collectively sharing risks that are too great for an individual to bear. In the event of one of these risks occurring without some form of insurance, individuals could suffer financial hardship, the loss of savings and the need to rely on the government's social security safety net.

In Australia, life insurance is voluntary. You may choose whether or not to purchase life insurance and how much you wish to insure against certain events occurring. Some superannuation funds and employers provide life insurance via group life insurance while you work and remain a member of the fund.

### The Life Insurance Contract

A life insurance policy is a contract that sets out the responsibilities of the life insurance company and the person who is taking out the insurance. The life insurance policy also sets out the requirements and further evidence needed if a claim is lodged. The consumer, known as the policyowner, agrees to pay premium/s and the insurance company agrees to pay out an agreed amount in the event of a certain event occurring, eg the death of the life insured in the case of a Term Insurance policy.

When you apply for life insurance, the insurer will assess the risk of you making a claim. This process is known as underwriting and ensures that the cost of your insurance is proportional to the risk involved. It also ensures that people with the same or similar risk pay the same amount of premium. Underwriting relies on the extensive use of statistical data and actuarial estimates.

In Australia, approximately 93% of all applicants for life insurance obtain policies at standard premium prices. A further 5% are classified as having additional risk and therefore may pay higher premiums, or have some conditions excluded from their policy. The 2% who are refused cover have serious existing health impairments, extremely hazardous jobs or other high risk factors.



## What are my obligations when I apply for insurance?

Under Australian law, it is the duty of the life insurance company to give you all necessary details about the products you may wish to purchase. If you decide to apply for life insurance to be issued on your life, the law requires you to provide the life insurer with all information about you that may affect the risk you are asking the insurer to accept. This will permit the life insurance company to undertake an accurate risk assessment of your application.

When you apply for insurance to be issued on your life, you will be asked to complete an application form and a medical questionnaire. The application form asks you for personal information which is used to help identify you and assists the life insurer in assessing the risk. The medical questionnaire asks for details about your personal medical history and information about any diseases or disorders that are likely to increase the probability of a claim. It also asks basic questions regarding whether there is any family medical history which may indicate that you may be at an increased risk of developing a hereditary disease (eg breast cancer, heart problems). The life insurance company may also request that you undertake a medical examination and/or blood tests.

Provided your application was accurate, once issued, your policy generally cannot be cancelled or the benefit reduced due to changes in your health or the results of future medical tests; and normally you cannot be singled out for a change in premium.

## What are my obligations once I lodge a claim for my insurance benefits?

A claim will be assessed in accordance with the terms and conditions of the policy. The life insurance company also has an obligation to all its other policyowners to ensure that only legitimate claims are paid. Life insurers do this by making appropriate inquiries after obtaining your consent.

This may involve you giving the life insurance company access to your medical and financial records. During the claim process, the insurer may ask you to complete authorities to allow access to information and documents. A life insurance policy usually allows the insurer to seek further information and this is used to assess the claim.

## What about my privacy?

The life insurance industry has a long-standing tradition of safeguarding the privacy of its customers. This especially applies to the sensitive nature of your medical information. The protection of personal information, including health information, is vital for the continued confidence of customers in the life insurance industry.

The protection of your private information has been reinforced by the introduction of national privacy legislation which is supported by the life insurance industry. Following a change in the law, the Privacy Act 1988 now contains 10 National Privacy Principles which apply to the private sector in Australia. These principles came into effect on 21 December 2001. All life insurance companies must comply with these Privacy Principles.

## How is my privacy protected?

Life insurance companies must protect your personal information, including all health information and other sensitive information. They must do this in a number of ways, including:

### A. Collection, Data Quality and Openness

A life insurer must:

- Only collect personal information which is relevant to your life insurance application and any subsequent life insurance contract including the assessment and management of a claim. The insurer must tell you the purpose for which it is collecting the information. Sensitive information, which includes health information, must only be collected if you consent or if the collection is required by law.
- Only collect information by fair and lawful means.
- Tell you the consequences of not providing the information requested. For example, if you choose not to provide medical information, the likely consequence is that the insurer is:-
  - unable to assess your risk and therefore is not able to provide you with a life insurance product, or
  - unable to assess your claim and you may not receive any benefits

Under the Insurance Contracts Act 1984, in the event that you do not disclose relevant information, or provide false or misleading information, it is possible that your life insurance contract may be avoided.

- Before or at the time the life insurer collects personal information about you, take reasonable steps to ensure that you are aware of your ability to gain access to the information [this is covered in the next section].
- Take reasonable steps to make sure that the personal information it collects, uses and discloses is accurate, complete and up-to-date at the time it is collected.
- Set out in a document clearly expressed policies on the insurer's management of personal information and make the document available to anyone who asks for it.
- On request, take reasonable steps to let you know, generally, the sort of personal information it holds, for what purposes, and how it collects, holds, uses and discloses that information.
- Provide details of its identity and how to contact it.
- States the type of organisations to which it usually discloses your personal information. For example in the life insurance industry it may be necessary to disclose personal information to underwriters or re-insurers for the purposes of assessing your risk. These organisations must apply the same levels of privacy protection for your personal information.

## B. Use, Disclosure and Security

A life insurance company must:

- Not use or disclose your personal information for an unrelated purpose (to the provision of life insurance), or in a way that you would not reasonably expect, unless you have consented to the proposed purpose. There are limited exceptions to this requirement;
- Keep your personal information secure. The company must take reasonable steps to protect your personal information from misuse, loss and unauthorised access, modification or disclosure. Life insurance companies will have special processes in place to ensure that your sensitive medical information is properly protected and that access to the information is limited to staff who require access to carry out their duties, eg underwriters and claims staff;
- Provide you with access to your personal information and the right to correct it, except in limited circumstances, as set out in the Privacy Act. Therefore, there may be limits on your access to some personal information depending on the circumstances, for example, if providing you with access would cause a serious threat to the life or health of any person. A life insurance company may charge you for access to your information, however this charge must not be unreasonable.

To find out more about the National Privacy Principles, IFSA encourages you to visit the website of the Office of the Federal Privacy Commissioner at: <http://www.privacy.gov.au/publications/npps01.html>.

### Genetic Information

IFSA has developed a Genetic Testing Policy to regulate the use of genetic tests by life insurance companies. Genetic test information will be treated with the highest standard of care that is consistent with the treatment of all other sensitive health information. Under the Genetic Testing Policy, IFSA members:

- Will not require you to undergo a genetic test when you apply for insurance;
- May require that you make available results of any previously undertaken genetic tests;
- Will not use genetic test information you have provided about yourself to assess the risk of another family member.

For more information please refer to IFSA's Fact Sheet on Life Insurance and Genetic Testing in Australia.

## What if I think my privacy has not been protected?

The insurer should provide you with information on its privacy policy or where to access the policy before you completed the application. In the event that you consider that the privacy of your information has not been protected, you should raise your concern or make your complaint, in the first instance, with the insurer.

Generally, the Privacy Act requires you to try to resolve any privacy issues with the relevant organisation in the first instance. If you are unable to resolve the issue, you may complain to the Office of the Federal Privacy Commissioner. For more information please visit [www.privacy.gov.au](http://www.privacy.gov.au) or call their Hotline number, 1300 363 992.

## Other Fact Sheets in the Series

Life Insurance in Australia  
How Life Insurance Works  
Life Insurance and Hepatitis C in Australia  
Life Insurance and Genetic Testing in Australia

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