

Grow Wrap Super and Pension Service

Product Update – Changes to Duty of Disclosure

Issued: 5 October 2021

This Product Update provides important information on changes to the Duty of Disclosure within the Grow Wrap Super and Pension Service.

This Product Update applies for members who wish to obtain insurance cover or make an alteration to existing cover.

Updated information

This Product Update amends the following document, issued on 1 February 2020:

- Grow Wrap Super and Pension Service (Service) Product Disclosure Statement (PDS) – page reference: 48.

What is changing?

From 5 October 2021, applicants for life insurance (and indeed all types of 'consumer insurance contracts') will no longer be bound by a Duty of Disclosure. Instead, customers entering into a consumer insurance contract will have a duty 'to take reasonable care not to make a misrepresentation'.

In assessing the current duty of disclosure, the Financial Services Royal Commission found the existing approach to disclosure is no longer relevant for modern consumer contracts of insurance. It was concluded that the duty does not recognise the breadth and depth of the gap between what a consumer knows and what an insurer knows is relevant.

Why are these changes necessary?

The Financial Services Royal Commission concluded that the duty to take reasonable care not to make a misrepresentation to an insurer is more appropriate for consumer contracts of insurance and is substantially less complex than the current disclosure duty.

The new duty to take reasonable care places a greater obligation on insurers to collect the information they need, rather than requiring applicants to guess what information might be important to an insurer.

As such this is a positive development, which should strengthen customer - and adviser - confidence that insurers will honour their promise and be there when it matters most, claim time.

Duty to take reasonable care

The duty to take reasonable care

When applying for insurance, you have a legal duty to take reasonable care not to make a misrepresentation to the Insurer.

A misrepresentation is a false answer, an answer that is only partially true, or an answer which does not fairly reflect the truth.

This duty also applies when extending or making changes to existing insurance, and reinstating insurance.

If you do not meet your duty

Not meeting your legal duty can have serious impacts on your insurance. Your cover could be avoided (treated as if it never existed), or its terms may be changed. This may also result in a claim being declined or a benefit being reduced.

Please note that there may be circumstances where the Insurer later investigates whether the information given to them was true. For example, the Insurer may do this when a claim is made.

About this application

When you apply for life insurance, the Insurer conducts a process called underwriting. It's how they decide whether they can provide cover, and if so, on what terms and at what cost.

The Insurer will ask questions they need to know the answers to. These will be about personal circumstances, such as your health and medical history, occupation, income, lifestyle, pastimes, and current and past insurance. The information given to the Insurer in response to their questions is vital to their decision.

When you apply for insurance benefits through a superannuation fund or ask to extend or make changes to existing insurance benefits, the Trustee may pass on to the Insurer personal information you provide to the Trustee. You also therefore need to take reasonable care not to make a misrepresentation when providing this information to the Trustee.

Guidance for answering the Insurer's questions

You are responsible for the information you provide to the Insurer. When answering their questions, you should:

- Think carefully about each question before answering. If you are unsure of the meaning of any question, please ask the Insurer before you respond.
- Answer every question.
- Answer truthfully, accurately and completely. If you are unsure about whether you should include information, please include it. Please don't assume the Insurer will ask others such as your doctor.
- Review your application carefully. If someone else helped prepare your application (for example, your adviser), please check every answer (and if necessary, make any corrections).

Changes before your cover starts

Before your cover starts, the Insurer may ask about any changes and you have the opportunity to answer their questions differently. As any changes might require further assessment or investigation, it could save time if you let the Insurer know about any changes when they happen.

Notifying the Insurer

If, after your cover starts, you think you may not have met your duty, please tell the Insurer immediately and they will let you know whether it has any impact on your cover.

Telephone contact

After you submit your application, the Insurer may contact you by phone to collect any information missing from your application. The information you provide will be recorded and used in the assessment of your application for insurance cover. The need for you to take reasonable care not to make a misrepresentation to the Insurer before the contract of insurance is entered into also applies during any phone contact with the Insurer.

If you need help

It's important that you understand this information and the questions the Insurer asks. Ask the Insurer for help if you have difficulty answering their questions or understanding the application process.

If you're having difficulty due to a disability, understanding English or for any other reason, help is available and can be provided if required. You can have a support person you trust with you.

What can the Insurer do if the duty is not met?

If you do not take reasonable care not to make a misrepresentation, there are different remedies that may be available to the Insurer. These are set out in the Insurance Contracts Act 1984 (Cth). They are intended to put the Insurer in the position they would have been in if the duty had been met.

For example, the Insurer may do one of the following:

- avoid the cover (treat it as if it never existed)
- vary the amount of the cover
- vary the terms of the cover.

Whether the Insurer can exercise one of these remedies depends on a number of factors, including all of the following:

- whether you took reasonable care not to make a misrepresentation. This depends on all of the relevant circumstances. This includes how clear and specific the Insurer's questions were and how clear the information they provided on the duty was
- what the Insurer would have done if the duty had been met – for example, whether they would have offered cover, and if so, on what terms
- whether the misrepresentation was fraudulent
- in some cases, how long it has been since the cover started.

Before the Insurer exercises any of these remedies, they will explain their reasons, how to respond and provide further information, and what you can do if you disagree.

Any questions?

If you have any questions:

- please speak with your financial adviser
- call Customer Services on **1800 095 825** weekdays between 8.30am and 5.00pm (AEST)
- email **service@wrapinvest.com.au**

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