

# GENERAL INSURANCE SALES FUNNEL

The report of the Royal Commissioner makes various suggestions as to changes in the law that may have a long term effect on the general insurance sales process.

We have prepared a chart comparing the current regulatory regime for the general insurance sales funnel with what the Royal Commissioner has proposed. While at this stage they are merely recommendations, both political parties have committed to implementing the changes.

The chart below shows the key changes and what to expect. Although it is probably too early to start making concrete business process changes, general insurers who are caught by the proposals will likely have to start change planning this year.

## NOW



- General insurance is a financial product s763A, 763C Corporations Act (CA)
  - Advice in respect of general insurance is financial product advice CA s766B
  - A general insurer must have an AFSL s911A (unless exempt CA s911A(g) if general insurer is regulated by APRA and wholesale clients only)
  - A general insurer must give
    - Financial Services Guide CA s941A
    - Product Disclosure Statement CA s1012B
    - General advice warning CA s949
  - General obligation to comply with financial services laws CA s912A
  - Good faith obligations ss13-14A Insurance Contracts Act (ICA)
  - Unfair contract terms law does **not** apply ICA s15
- ICA sections 21 and 28
  - ICA Good faith obligations ss 13-14A
  - Unfair contract terms law does **not** apply ICA s15
- Is **not** financial product advice Corporations Regulations 7.1.33
  - Good faith obligations ICA ss 13-14A Act
  - Unfair contract terms law does **not** apply ICA s15
  - Codes of Conduct - voluntary/unenforceable by insureds

## POST ROYAL COMMISSION



- General insurance is a financial product CA s763A, 763C
  - Advice in respect of general insurance is financial product advice CA s766B
  - A general insurer must have an AFSL CA s911A (unless exempt CA s911A(g) regulated by APRA and wholesale clients only)
  - A general insurer must give
    - Financial Services Guide CA s941A
    - Product Disclosure Statement CA s1012B
    - General advice warning CA s949
  - General obligation to comply with financial services laws CA s912A
  - Good faith obligations ss ICA 13-14A
  - **Unfair contract terms law will apply** independently of ICA s 13
  - **No hawking/cold calling**
  - **No commissions**
- ICA s 21 **replaced** for consumer contracts by a duty to take reasonable care not to make a misrepresentation to an insurer
  - Consequential changes to ICA s28
  - Unfair contracts terms law **will apply** independently of ICA s 13
  - Good faith obligations ICA ss 13-14A to operate independently of unfair contracts terms law
- Is financial product advice
  - Good faith obligations ICA ss13-14A
  - Unfair contract terms law **apply** independently of ICA s 13
  - Codes of Conduct - **enforceable** by insureds
  - Duty to take reasonable steps to **cooperate** with AFCA



**Toby Blyth**  
Partner