

**AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY**

Level 12, 1 Martin Place, Sydney, NSW, 2000  
GPO Box 9836, Sydney, NSW, 2001

T 02 9210 3000 | W [www.apra.gov.au](http://www.apra.gov.au)



Ref no. 16/001582

27 July 2016

Philip Sweeney

By email: [foi+request-1967-672762fc@righttoknow.org.au](mailto:foi+request-1967-672762fc@righttoknow.org.au)

Dear Mr Sweeney

**Request for Internal Review under the *Freedom of Information Act 1982* (Cth) (FOI Act)**

I refer to your FOI request dated 27 May 2016 (your original FOI request), in which you sought the following information:

*“I refer to a letter dated 18 April 2016 that ASIC has recently sent to the providers of life insurance products following a direction from the Assistant Treasurer to investigate the claims handling procedures across the industry following the CommInsure scandal.*

*In this letter the following is stated:*

*“We understand that APRA may be writing to you in relation to similar matters”.*

*The document I seek such a document. The name and address of the party to whom the letter has been addressed can be redacted and I only need one example, not a redacted copy of every letter sent.”*

The Australian Prudential Regulation Authority (APRA) acknowledged receipt of your original FOI request on 9 June 2016. APRA made a decision to defer access to the requested documents under subsection 21(1)(c) of the FOI Act (the original FOI decision) in response to your original FOI request on 29 June 2016.

APRA received your request for an internal review of APRA’s original FOI decision (the internal review application) by email, on 29 June 2016.

In your internal review application you cited the following reasons for seeking an internal review of APRA’s original FOI decision:

*“I am writing to request an internal review of Australian Prudential Regulation Authority’s handling of my FOI request ‘Letter to Life Insurance Product Providers’.*

*The document that I seek is a copy of a letter sent by APRA and not copies of letters received by APRA in response to this letter.*

*The reasons provided in the decision letter would apply if the requested was for copies of letters received but not for a copy of a letter that had been sent and where the name of the addressee had been redacted.”*

**Notice of decision**

I attach a notice of decision with statement of reasons. The statement of reasons sets out your rights of review.

Please contact me if you have any queries.

Yours sincerely

A handwritten signature in black ink, appearing to be 'David Sullivan', written in a cursive style.

David Sullivan  
FOI Officer  
Tel: 02 9210 3000  
Fax: 02 9210 3411  
[foi@apra.gov.au](mailto:foi@apra.gov.au)

**NOTICE OF DECISION MADE UNDER SECTION 23  
OF THE FREEDOM OF INFORMATION ACT 1982 (CTH) (FOI ACT)  
WITH REASONS FOR DECISION PROVIDED UNDER SECTION 26**

- Applicant:** Phillip Sweeney
- Decision-maker:** David Sullivan, an authorised officer of the Australian Prudential Regulation Authority (APRA) for the purposes of section 23(1) of the FOI Act.
- Relevant documents:** Request for documents relating to a letter sent to the providers of life insurance products in respect of claims handling procedures.
- My decision:** *Grant access to the document specified in the Applicant's request because it is a publicly available document.*

#### **MATERIAL FACTS**

1. I refer to your FOI request dated 27 May 2016 (your **original FOI request**), in which you sought the following information:

*"I refer to a letter dated 18 April 2016 that ASIC has recently sent to the providers of life insurance products following a direction from the Assistant Treasurer to investigate the claims handling procedures across the industry following the CommInsure scandal.*

*In this letter the following is stated:*

*"We understand that APRA may be writing to you in relation to similar matters".*

*The document I seek such a document. The name and address of the party to whom the letter has been addressed can be redacted and I only need one example, not a redacted copy of every letter sent."*

2. APRA acknowledged receipt of your original FOI request on 9 June 2016. APRA made a decision to defer access under section 21(1)(c) of the FOI Act (the **original FOI decision**) in response to your original FOI request on 29 June.
3. APRA received your request for an internal review of APRA's original FOI decision (the **internal review application**) by email, on 29 June 2016.

#### **EVIDENCE AND MATERIAL RELIED ON**

4. In making my decision, I have relied on the following evidence and material:
  - a) the Applicant's request received by APRA on 27 May 2016;
  - b) acknowledgment email with attached letter from FOI Officer to the Applicant dated 9 June 2016;
  - c) email correspondence between Senior Manager, Legal and Head Media & Communications on 30 May 2016;

- d) email correspondence between Senior Manager, Legal and General Manager, Diversified Institutions Division on 30 May 2016;
- e) email correspondence between Senior Manager, Legal and General Manager, Diversified Institutions Division on 28 June 2016;
- f) email correspondence between Coordinator Web Content Management and Member on 22 July 2016;
- g) memorandum from Member of FOI Team dated 26 July 2016;
- h) letter, notice of decision and statement of reasons dated 29 June 2016;
- i) internal review application from the Applicant dated 29 June 2016;
- j) relevant sections of the *Australian Prudential Regulation Authority Act 1998* (Cth) (APRA Act);
- k) relevant sections of the FOI Act; and
- l) guidelines issued by the Office of the Australian Information Commissioner to date (FOI Guidelines).

#### REASONS FOR DECISION

- 5. The FOI Officer notified you on 29 June 2016 of APRA's decision to defer access under s 21(1)(c) of the FOI Act, because the premature release of the documents concerned would be contrary to the public interest.
- 6. The relevant document sought in the original FOI decision has subsequently been released to the public and can be accessed from the following link: <http://www.apra.gov.au/lifs/Pages/other-information-for-life-insurance.aspx>. A copy of the document is attached to the notice of decision.

#### ADVICE TO APPLICANT AS TO RIGHTS OF REVIEW

##### *Application for review by Information Commissioner*

- 7. Pursuant to section 54L of the FOI Act, you have the right to apply to the Information Commissioner for a review of the original decision or a review of a decision made on review.
- 8. Any application must be in writing and must give details of an address where notices may be sent and include a copy of the original decision or the decision made on internal review.
- 9. An application for review by the Information Commissioner should be sent:
  - Online: [www.oaic.gov.au](http://www.oaic.gov.au)
  - Post: GPO Box 2999, Canberra ACT 2601
  - Fax: +61 2 9284 9666

- Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)
- In person:  
*Level 3, 25 National Circuit  
Forrest, ACT, or at  
Level 8, Piccadilly Tower, 133 Castlereagh Street,  
Sydney, NSW*

#### ***Application for review by Administrative Appeals Tribunal***

10. If the decision on review by the Information Commissioner is not to grant access to all of the documents within your request, you would be entitled to seek review of that decision by the AAT.
11. The AAT is an independent review body with the power to make a fresh decision. An application to the AAT for a review of an FOI decision does not attract a fee. The AAT cannot award costs either in your favour or against you, although it may in some circumstances recommend payment by the Attorney-General of some or all of your costs. Further information is available from the AAT on 1300 366 700.

#### ***Complaints to the Information Commissioner***

12. You may complain to the Commissioner concerning action taken by this agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Commissioner will conduct an independent investigation of your complaint.
13. You may complain to the Commissioner either orally or in writing, by any of the methods outlined above, or by telephone, on 1300 363 992.



David Sullivan  
FOI Officer  
Australian Prudential Regulation Authority

Date: 27/7/16



**AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY**

Level 12, 1 Martin Place, Sydney, NSW, 2000  
GPO Box 9836, Sydney, NSW, 2001

T 02 9210 3000 | W [www.apra.gov.au](http://www.apra.gov.au)

---



**APRA**

4 May 2016

To the Chairs of APRA-registered Life Insurers

**Information Request Related to Claims Oversight and Governance**

The life insurance industry would be aware of recent publicity alleging that inappropriate handling of claims and out of date definitions have disadvantaged claimants.

APRA's engagement with industry in recent years has emphasised the need to improve practices and governance generally. The introduction of LPG 270 (supporting SPS 250) has provided impetus for industry to address poor practice in the group risk space; and builds on the existing prudential framework e.g. CPS 220 and CPS 510.

Life insurers have undertaken a number of initiatives in recent years to improve practices in the group risk space. We are aware also that many life insurers have undertaken reviews of their claims management processes.

A number of the themes raised publicly regarding the handling of group risk claims align with the issues APRA has canvassed with industry and individual institutions in the recent past<sup>1</sup>. These include:

- Insurers being satisfied that they have appropriate terms and conditions in place for group insurance schemes and that there is a systematic process to identify and analyse any potential changes to product terms and conditions;
- Whether insurers are assessing claims fairly and in accordance with the policy terms - this is an important element in order for the board to be confident that it is meeting its obligations under section 48 of the *Life Insurance Act 1995*; and
- The level of alignment between the claims philosophy of life insurers and superannuation trustees and how this alignment is achieved and operationalised.

While these matters have arisen in the context of group risk insurance, similar considerations will apply to individual business.

Recent public debate also has raised questions about culture within life insurers, in particular how fairness in the assessment of claims is achieved on an ongoing basis.

APRA now is requesting information from boards describing how the insurer satisfies itself that the above matters and any others seen by the insurer as relevant in this context, are addressed. We are not seeking

---

<sup>1</sup> For example, refer to APRA's 'Letter to life insurers (including friendly societies): Group Insurance' dated 18 May 2015.

details of individual claims but information on the framework and mechanisms insurers have established to address these matters effectively.

Your response should address any issues you may consider relevant and would be expected to include or refer to information such as:

- Any specific work on culture (e.g. surveys or board discussions) that bears particularly on claims handling;
- The nature of any engagement with trustees in the last 6 months to discuss claims practices, including in response to the recent publicity;
- Any claims philosophy material provided to superannuation trustees in respect of group risk insurance schemes tendered for or contracted since 1 January 2014;
- How planned actions to address any issues identified or desired improvements have been operationalised and monitored e.g. changes to benefit definitions;
- How the board monitors claims outcomes including whether claims are handled fairly in accordance with policy terms and in a timely fashion;
- How the board oversees the appropriateness of the insurer's response to customer complaints, including how improvements and 'lessons learned' are identified and operationalised; and
- Remuneration arrangements for relevant staff (including claims staff) and how the board has determined that these align with the relevant requirements of CPS 510 and support appropriate claims outcomes.

The above are suggestions and are not meant to be prescriptive or exhaustive.

We would appreciate a succinct response that addresses the issues identified by the board as being relevant. We are not expecting to receive large volumes of documents as part of your reply. Existing policies and other documents may be referenced but we do not expect to receive copies of such material.

APRA is working co-operatively with the Australian Securities and Investments Commission (ASIC) with the aim of seeing improved practices so that beneficiaries are dealt with fairly in accordance with policy terms.

We would appreciate a response to the above by no later than Friday 17 June 2016. Should you require any further information or clarification please contact your APRA supervisor.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Geoff Summerhayes', with a stylized flourish at the end.

Geoff Summerhayes  
Member