

Purpose

Property is the most commonly used asset to secure a small business loan, and this property is often the family home. For many owners protecting the business is the same as protecting their families and their homes, so when the risks become too high small businesses close. Insurance is the key way that small businesses can mitigate risk to protect themselves and their families, their customers and their employees. Without appropriate insurance, outcomes beyond the control of business owners can bring severe financial distress and the loss of these assets.

The need for risk mitigation with insurance has never been greater than in 2020, when Australia has been rocked by ongoing drought, significant floods, devastating fires and the global COVID-19 pandemic. Over the last 12 months, many businesses have relied on their insurance policies when deciding to keep their doors open and their staff employed.

There is a growing trend of insurance companies denying small businesses insurance or pricing insurance policies out of reach. In this new operating environment, small businesses who have held insurance policies for over a decade without a single claim are being refused renewal, or if offered renewal are discovering the cost has more than doubled. Many businesses with current policies have been subjected to unilateral changes that have reduced their coverage without consent, and with no refund of premiums.

Insurance for small businesses is both a practical and a legal necessity. Australian businesses cannot operate without public liability insurance and entire industries are being denied public liability insurance or facing dramatically increased costs. Being unable to renew this insurance, and other business insurance, due to coverage denial or increased costs is forcing small businesses to close. This creates a serious risk to Australia's economic recovery and future success.

Terms of Reference

That the Australian Small Business and Family Enterprise Ombudsman inquire into and report on practices of the insurance industry impacting small business and whether insurance products are fit for the purposes of small business, with particular reference to:

1. the availability and coverage of insurance policies provided to small businesses including:
 - the impact of coverage denial;
 - policy exclusions and how they are communicated to small businesses;
 - the use of definitions in policy documents that create de facto policy exclusions;
 - the fitness for purpose of market offerings;
2. other issues affecting availability and coverage including:
 - any impact of the current market's lack of diversity in insurance providers, underwriters and types of insurance;
 - insurance policy affordability and its impact on availability, including increases in price that amount to denial of coverage;
 - current models of government support or control in Australia and internationally that facilitate affordable access to appropriate insurance for small businesses;
3. the role of brokers in getting the right coverage;
4. the use of contract changes that have not been agreed to and their potential treatment as Unfair Contract Terms;
5. the timeliness of payment of insurance payouts and the effectiveness of dispute resolution frameworks for insurance disputes;

6. the effectiveness of relevant codes of conduct and legislation, including the adequacy of applicable penalties; and
7. any other relevant matters.

The impact of insurance companies incentivising the use of preferred providers for services may be considered in a future review but will not be covered in this inquiry.

Timeframe

We will commence the inquiry in mid-late July 2020 and complete the report before the end of 2020.