

## Significant Event Notice

### The duty to take reasonable care not to make a misrepresentation will come into effect from 5 October 2021.

Issued 5 October 2021

Superestate recognises the importance of financially protecting you and your family by providing a range of different ways to be insured.

This notice sets out changes to the insurance arrangements currently described in the Superestate Product Disclosure Statement and the associated Product Guide (PDS). This notice should be read together with the current version of the PDS which is available [here](#). These changes will be incorporated into future versions of the PDS.

#### Background to the changes

The Insurance Contracts Act 1984 (Act) has been amended following the Hayne Royal Commission. One of the changes to the Act included replacing the “duty of disclosure” with a “duty to take reasonable care not to make a misrepresentation” for certain ‘consumer insurance contracts’ (this term is defined in the Act) from 5 October 2021, however insurers may opt-in to this change early. MetLife Insurance Limited and YourCover Pty Ltd (the insurers for Superestate) has elected to opt-in to the change on 5 October 2021 for Death, Total Permanent Disablement (TPD) and Income Protection cover provided through Superestate. Please read these changes carefully as they may impact you.

#### What has changed?

Prior to 5 October 2021, a different duty applied when you were answering the insurers’ questions in an application for Death, Total Permanent Disablement (TPD) and Income Protection cover within Superestate. If you completed an application for Death, TPD or Income Protection cover prior to 5 October 2021 the “duty of disclosure” applied to you. Under the “duty of disclosure”, you were required, before entering into the contract, to tell the insurer/s anything that you know, or could reasonably be expected to know, that may affect the insurers’ decision to provide the insurance and on what terms.

Effective 5 October 2021, the “duty of disclosure” will be replaced with the “duty to take reasonable care not to make a misrepresentation”. For insurance applications completed on or after 5 October 2021, there is a “duty to take reasonable care not to make a misrepresentation” which is explained in more detail below. The duty to take reasonable care not to make a misrepresentation will come into effect from 5 October 2021.

**NOTE:** the information in the boxed section below applies from 5 October 2021 and the terms: ‘we’, ‘our’ and ‘us’ in this section refer to MetLife Insurance Limited as the insurer responsible for providing Death/Terminal Illness Insurance cover and refer to YourCover Pty Ltd as the insurer responsible for providing TPD and Income Protection cover.

## The duty to take reasonable care not to make a misrepresentation

Diversa has a contract of insurance with MetLife Insurance Limited ABN 75 004 274 882 AFSL 238096 ('MetLife' or the 'Insurer') and YourCover Pty Ltd ABN 35 169 038 466 AFSL 461299 ('YourCover on behalf of certain underwriters at Lloyd's') to provide the insurance benefits for members of the Fund. On becoming a member, you are bound by the terms and conditions of these contract of insurance should you opt into the insurance offering.

When you apply for life, income protection or TPD insurance, we will ask you a number of questions.

Our questions will be clear and specific. They will be about things such as your health and medical history, occupation, income, lifestyle, pastimes, and other insurance.

The answers given in response to their questions are very important. We use them to decide if we can provide cover to you and, if we can, the terms of the cover and the premium we will charge.

**Care must be taken to answer all questions we ask as part of your insurance application honestly and accurately.**

**Otherwise, you may not be able to rely on your insurance when it's needed the most.**

### The duty to take reasonable care

When applying for insurance, there is a duty to take reasonable care not to make a misrepresentation.

A misrepresentation could be made if an answer is given that is false, only partially true, or that does not fairly reflect the truth. This means when answering our questions, you should respond fully, honestly and accurately.

The duty to take reasonable care not to make a misrepresentation applies any time you answer our questions as part of an initial application for insurance, an application to extend or make changes to existing insurance, or an application to reinstate insurance.

You are responsible for all answers given, even if someone assists you with your application.

We may later investigate the answers given in your application, including at the time of a claim.

### Consequences of not complying with the duty

If there is a failure to comply with the duty to take reasonable care not to make a misrepresentation, it can have serious consequences for your insurance, such as those explained below:

Potential consequences	Additional explanation	Impact on claims
<ul style="list-style-type: none"><li>• <b>Your cover being avoided</b></li></ul>	This means your cover will be treated as if it never existed	Any claim that has been made will not be payable
<ul style="list-style-type: none"><li>• <b>The amount of your cover being changed</b></li></ul>	Your cover level could be reduced	If a claim has been made, a lower benefit may be payable
<ul style="list-style-type: none"><li>• <b>The terms of your cover being changed</b></li></ul>	We could, for example, add an exclusion to your cover meaning claims for certain events will not be payable	If a claim has been made for an event that is now excluded, it will not be payable

If we believe there has been a breach of the duty to take reasonable care not to make a misrepresentation, we will let you know the reasons and the information we relied on and give you an opportunity to provide an explanation.

Superestate Pty Ltd (ABN 61 615 727 663; AFS Representative No. 001257096) is a Corporate Authorised Representative of Sanlam Private Wealth Pty Ltd (ABN 18 136 960 775; AFSL 337927). Interests in Superestate are issued by Diversa Trustees Limited (ABN 49 006 421 638; AFSL 235153; RSE Licence L0000635) in its capacity of trustee of the Tidswell Master Superannuation Plan (ABN 34 300 938 877).

In determining if there has been a breach of the duty, we will consider all relevant circumstances.

The rights we have if there has been a failure to comply with the duty will depend on factors such as what we would have done had a misrepresentation not been made during your application process and whether or not the misrepresentation was fraudulently made.

If we decide to take action on your cover, we will advise you of our decision and the process to have this reviewed or make a complaint if you disagree with our decision.

## Guidance for answering our questions

When answering our questions, please:

- Think carefully about each question before you answer. If you are unsure of the meaning of any question, please ask Superestate before you respond.
- Answer every question that we ask you.
- Do not assume that we will contact your doctor for any medical information.
- Answer truthfully, accurately and completely. If you are unsure about whether you should include information, please include it or check with us.
- Review your application carefully. If someone else helped prepare your application (for example, your adviser), please check every answer (and make corrections if needed) before the application is submitted.

## When could the duty to take reasonable care not to make a misrepresentation apply to me?

The duty to take reasonable care not to make a misrepresentation will apply to you if, on or after 5 October 2021, you:

- start a new application for Death, Total Permanent Disablement (TPD) or Income Protection cover;
- apply to extend or make changes to existing cover (where the changes involve an increase in the sum insured or an application for an additional type of cover); or
- you apply to reinstate insurance.

## Transfer of insurance cover

If you already have insurance cover that was previously underwritten with another superannuation fund and wish to transfer it over to Superestate, the transfer will be based on the assumption that the information you provided to your previous insurer was accurate and complete and that you complied with the duty to take reasonable care not to make a misrepresentation under the Insurance Contracts Act 1984 (Cth). It is important to note that the duty to take reasonable care not to make a misrepresentation has replaced the duty of disclosure. The duty of disclosure may have applied depending on the date you made your application for cover, to vary your cover, or to reinstate your cover, with the previous insurer. If so, we may treat a breach of the duty of disclosure the same way we would treat a breach of the duty to take reasonable care not to make a misrepresentation. The transferred cover will be treated as not having started if you have breached the duty or misrepresented information to your previous insurer.

## Ongoing applications as at 5 October 2021

For any members that have made an application for cover prior to 5 October 2021 to which the duty of disclosure would apply, but have not had their application finalised by the insurer by 5 October 2021 (when an application is finalised, the Fund will contact you to confirm whether your application was successful or unsuccessful), the “duty of disclosure” will apply to your application and not the “duty to take reasonable care not to make a misrepresentation”. The relevant “duty of disclosure” wording was set out on your application at the time.

## Other important information

Your application for cover will be treated as if you are applying for an individual ‘consumer insurance contract’. For this reason, the duty to take reasonable care not to make a misrepresentation applies.

Before your cover starts, we may ask about any changes that mean you would now answer our questions differently. As any changes might require further assessment or investigation, it could save time if you let us know about any changes when they happen.

If after the cover starts, you think you may not have met your duty, please contact us immediately and we’ll let you know whether it has any impact on your cover.

*It’s important that you understand this information and the questions we ask, so if you have any queries please contact us by calling 1300 519 800 or emailing [hello@superestate.com.au](mailto:hello@superestate.com.au).*