Review of WA code of practice for pre-paid funerals – Supplementary Submission of the FSA

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www.friendlysocieties.org.au

Friendly Societies of Australia Incorporated
146 Richardson Street, Albert Park, Victoria, 3206
ABN 90 312 919 698

Members of the Friendly Societies of Australia (FSA)

Australian Unity

Australian Friendly Society

Centuria

Foresters Friendly Society

KeyInvest
Established 1878

NobleOak

Over Fifty Guardian Friendly Society Limited

Sureplan Friendly Society Ltd

Background

On 11 July 2018, the FSA (on behalf of the friendly societies industry) lodged a submission to be considered as part of the consultation the Government of Western Australia is conducting (through the Department of Mines, Industry Regulation and Safety) to develop a new code of practice for pre-paid funerals in WA.

The following supplementary submission has been developed to ensure the Government is aware of additional key policy positions of the FSA in relation to pre-paid funerals in WA, which are designed to maximise consumer protection.

This supplementary submission should be read in conjunction with our initial, primary submission.

About the FSA

The FSA is the industry association representing Australia's friendly societies regulated by the Australian Prudential Regulation Authority (APRA).

Friendly societies in Australia provide financial services to more than 800,000 members. Collectively, our industry manages approximately $7 billion in funds and annually, more than $675 million in benefits are paid out by friendly societies.

Our members offer financial products for life events, including investment bonds, scholarship plans for school education, higher education and training, funeral bonds and risk insurance.

Funds management – greater protection for WA consumers

As stated in our initial submission, savings invested in funeral bonds to fund funerals and funeral expenses are, at the time of death, paid to a legal personal representative, the estate of the deceased person or to a funeral director.

A current publication of the Australian Securities and Investments Commission (ASIC) titled "Paying for funerals" states:

"In some states, funeral directors must put your payments into a registered funeral fund, which protects your money if their business goes broke. If you buy a pre-paid funeral in Western Australia, the ACT or the Northern Territory, there are fewer consumer protections." (page 6)

This publication can be accessed through the following link: https://www.moneysmart.gov.au/media/131954/paying-for-funerals.pdf.

In Victoria, the Funerals (Pre-Paid Money) Act 1993 states a funeral organiser must ensure that all money paid to the funeral organiser in respect of a pre-paid funeral contract by or on behalf of any other party to the contract is invested in a friendly society funeral benefit fund or a policy issued by or other investment with a life insurance company.

In Tasmania, similar obligations are enshrined in legislation.

To minimise the financial risk to consumers in WA arising from any funds invested for funerals and funeral expenses, it is the submission of the FSA that, as is the situation in Victoria and Tasmania, all such funds invested in WA should be held independently and separate from funeral directors.

This would offer consumers better protection compared with arrangements where funeral directors have associated trusts for holding such funds.

Funeral directors are not subject to the same level of financial services oversight or prudential regulation by APRA and ASIC as friendly societies (and other financial institutions). Therefore, there is a greater consumer risk if funeral directors (together with their associated trusts) run into financial difficulties.

In contrast, friendly societies operate under a unique and ring-fenced approved "benefit fund" structure, where surpluses made by friendly societies are put back into developing better products and services for members of friendly societies. No money invested in an approved benefit fund can be used for anything else other than paying benefits to consumers who have contributed to the fund (other than regulated expenses to cover the management of the fund approved by an appointed actuary).

Funeral funds invested with friendly societies are capital guaranteed. Obligations under APRA's regulatory regime mean friendly societies must maintain a capital surplus in order to protect funds invested by consumers. Therefore, if a friendly society was to experience financial problems, consumers' funds would be protected.

Conclusion

On behalf of our members, the FSA looks forward to providing further information in relation to our supplementary submission through meetings and/or other methods of formal engagement.