

Why do I need to be an Authorise Representative?

As a consequence of the Financial Services Reform Act (FSRA) in early 2004, the owners corporation and insurance industries in Australia have undergone radical changes as to how they provide financial (insurance) services to clients.

The owners corporation is responsible for ensuring that it holds building and liability insurance in accordance with the requirements of the Owners Corporations Act 2006.

If the owners corporation does not have insurance to protect it, the individual unit or lot owners will be liable for property damage and legal liability. This could result in financial hardship and may result in fines and penalties for the owners corporation.

As the Manager, your duties may include obtaining valuations for insurance purposes, obtaining insurance quotes, arranging and paying for the insurance in accordance with the owners corporation instructions and assisting the owners corporation to make insurance claims. Arranging the insurance and paying the premium are both 'financial services' under the FSRA. Your duties may also include answering questions about insurance, which might involve providing a 'financial service' under the FSRA.

To be able to provide a financial service and arrange insurance under the Corporations Act an Owners Corporation Manager must choose to be appointed as either (1) a 'Distributor' or (2) an 'Authorised Representative' of an Australian Financial Services (AFS) Licensee. The financial product information that can be imparted by 'Distributors' and 'Authorised Representatives' does vary.

It is to your advantage to understand why SCA (Vic) has chosen to support the appointment of all of its OC Manager members as Authorised Representatives. We believe as an Authorised Representative, you are equipped to deliver a higher level of customer service to your clients as a direct result of holding this authority. Also as an Authorised Representative, you have a broader authority to service your clients when delivering Licensee's insurance products by being able to provide General Advice as well as Factual Information to your clients, as compared to other distribution models which are limited to providing Factual Information only.

The financial product information that can be imparted by Authorised Representatives' is very specific and it is important to understand the advantages of holding the authority of being an Authorised Representative.

Some OC Managers who are appointed as Distributors of other AFS Licensees may only 'arrange' Financial Products – they are not allowed to provide any advice (General or Personal) at all in relation to the OC insurance product. These Distributors are only able to provide Factual Information about the insurer and the OC insurance.

An Authorised Representative however can provide Factual Information as well as General Advice, in addition to arranging the OC insurances. Advice authorities are dependent upon the level of training undertaken and the authorisations issued by the AFS Licensee. A General Advice authorisation allows a Manager to compare the features of different OC insurance and provide additional guidance to the client about OC insurance.

This additional General Advice authorisation can also reduce an OC Managers business risk. If you give advice pursuant to your authority and a claim results, you are protected under the Insurance Licensees cover.

You cannot provide any advice/information outside the authority appointed by a Licensee. If you do so you will need to rely on cover being provided by your Professional Indemnity Insurer, which may or may not exist. Consequently Distributorship which provides factual authority only, consequently increases your business risk.

It is also important to remember that a fiduciary relationship exists between an Authorised Representative and their client through the application of the Contract of Appointment, and through the relationship developed. This relationship is also based on trust, honesty and confidence, which arises when one person is bound to act in good faith and in the interests of another person. The relationship that is developed between the two parties can be seen as a relationship of reliance.

SCA (Vic) believes the Authorised Representative model most appropriately allows OC Managers to fulfil their fiduciary obligations to their clients and provide an appropriate level of advice on

insurance matters in order to properly service their clients. At the centre of any fiduciary relationship, a duty exists that requires an OC Manager to make available to the client, all relevant information, which will then enable the client to make an informed decision.

For example the necessity for the OC Manager to provide all required information regarding variances between Insurers, including cover, security etc, when multiple policies are presented, to enable the OC to make an informed decision on which insurance policy to select.

As the OC industry becomes more complex and more competitive SCA (Vic) believes that OC Managers will be expected to provide an improved level of service to their clients, which will include some form of advice required at some point by the client. To successfully discharge this duty, an OC Manager would need to become an Authorised Representative with the appropriate advice authorisations issued by an AFS Licensee.

The Authorised Representative model represents SCA (Vic)'s commitment to you and demonstrates the SCA (Vic)'s position of ensuring that the best level of support is provided for OC Managers.

This is reiterated by referring to the Business Licensing Authority [BLA] web site at www.bla.vic.gov.au where you will find the BLA / Consumer Affairs Victoria publication, "Guidelines for Registered Owners Corporation Managers".

For these reasons SCA (Vic) requires proof of an OC manager's A/R status on applications for membership.