

## Summary of proposed amendments to the Human Rights and Anti-Discrimination Bill 2012

- If an insurer refuses to provide cover to someone on actuarial or statistical grounds on the basis of their age, sex or disability, we propose that it must also **provide an explanation of its decision to the applicant in plain English, making reference to the evidence of the specific additional risk that the applicant represents.**
- This means that the evidence insurers rely on must be available in a **readily accessible format** that can be provided to consumers upon request
- **Make it an offence** to not provide data or a plain English explanation of the decision within 28 days. Such an amendment would **reflect the current powers** provided to the Commission under section 54 of the ADA and section 87 of the SDA.
- **Clarify what 'other relevant factors' are.** We believe that this clarification should be consistent with case law, which defines 'other relevant factors' as:
  - All other 'relevant factors', and not just the factors selected for consideration by the particular insurer or person seeking to invoke the exemption
  - Relevant factors that reduce any risk to insurers as well as the factors that increase the risk to insurers
- Before refusing cover having regard to 'other relevant factors', an insurer must **take into account the circumstances of the individual applicant.** An insurer must not rely solely on general assumptions about people of a particular age or sex or with a particular disability in deciding to refuse cover.
- Explanatory material accompanying the Bill should state explicitly that it is not reasonable to refuse to insure a person on the grounds of age, sex or disability **simply because of historical practice or the practice of other insurers, however widespread, or to rely on inaccurate assumptions about people of particular genders, ages or disabilities.**
- Insurers should be required to advise the Commission how often each year they have declined to provide insurance to someone on the grounds of age, sex or disability on actuarial or statistical grounds. **The Commission should then publish the number of refusals made every year by each insurer on its website and/or in its annual report,** with reference to the grounds on which cover was refused (e.g. age, sex, type of disability).