

Mr Steve Irons MP

Chair, Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

18 November 2016

Dear Mr Irons

I write in response to the call for submissions to the Committee's inquiry into the life insurance industry.

This specific inquiry is very welcome as it will shine a spotlight on how life insurers discriminate against and unethically treat people with mental illness.

Mental Health Australia and beyondblue have been working together for many years to highlight the ongoing problems that people with mental illness experience when seeking to access insurance coverage or claim on their insurance policies. The beyondblue submission will comprehensively describe the experiences of consumers and our collective efforts to work with the insurance industry to reduce discrimination of people with mental illness and people who have sought help for symptoms of mental illness. I also draw your attention to the commendable work of the Public Interest Advocacy Centre and Victoria Legal Aid in representing individuals affected.

While outside the Committee's terms of reference, the experiences in relation to life insurance are mirrored in the income protection and travel insurance sectors. A recent article by Ginger Gorman epitomises the experiences of many people seeking income protection and other insurance (see www.news.com.au 4 November 2016). It would be a great service to people with mental illness if the inquiry's terms of reference were extended to income protection, total and permanent disability, travel and loan insurance.

In Mental Health Australia's view, there is a common underlying cause across these types of insurance, stemming from a lack of appropriate data that would support underwriting and claims decisions that discriminate against people with mental illness. The *Disability Discrimination Act 1992* allows insurance providers to discriminate on the basis of disability where insurers have actuarial or statistical data upon which it is reasonable to rely. Mental Health Australia has seen no evidence to date that insurance providers are indeed relying on data reasonably to justify denying coverage to, or rejecting claims by, people with mental illness.

For many years both industry and mental health stakeholders have been frustrated by what appears to be a lack of appropriate Australian data that would allow insurers to accurately assess the risk of people with a history of mental illness claiming against insurance policies of various kinds. The finding by the Victorian Civil and Administrative Tribunal in the case of *Ingram v QBE Insurance (Australia) Ltd (Human Rights)* (2015, VCAT 1936) considered at some length the appropriateness of the data used by QBE, underscoring the centrality of data issues.

Mental Health Australia contends that it is unethical, and potentially unlawful, for life insurers to offer policies with broad, blanket exclusions for any type of mental health condition in the absence of robust actuarial and statistical data. Blanket exclusions treat *all* people who report a mental health condition, a history of having had a mental health condition, or having sought clinical assistance to navigate a difficult period of their life, as a homogenous group presenting a high risk to insurers. This is demonstrably untrue.

Our efforts to work with insurers for over a decade have had limited impact on insurers' approaches to underwriting and claims assessment, as evidenced by the continuing number of people who contact Mental Health Australia and beyondblue to share their stories. Insurers continue to make spurious use of health information to justify refusing insurance or rejecting claims, for example by conflating the signs and symptoms of a mental health condition with diagnosable conditions. This highlights the need now for more rigorous reform and oversight of the industry by the Australian Securities and Investments Commission and other relevant agencies.

The mental health policies of the Australian Government and state and territory governments have at their core the need to remove stigma and discrimination associated with mental illness and to encourage help-seeking. Meanwhile, insurance providers have further entrenched stigma and discrimination (for example by offering policies with blanket exclusions for any type of mental health condition) and discouraged help-seeking (by denying coverage to people who have recently sought help for a mental health issue). The conflict between established, bipartisan public policy and the behaviour of commercial entities could not be starker.

To enable an evidenced-based approach to assessing risk and decisions on insurance applications and claims, Mental Health Australia recommends that an independent actuarial study be commissioned. The study should seek to answer the following questions:

- What existing data from Australia can be used to assess the risks of someone making a claim arising from mental illness, and the likely costs of such claims, for life insurance, income protection insurance, total and permanent disability insurance, travel insurance, loan insurance, and any other kinds of insurance for which exclusions for mental illness apply?
- What does this data signify about the risk profile of people with different kinds of mental illness, different levels of illness severity, and different clinical histories, for each type of insurance?

- What kinds of additional data would be needed to make an accurate assessment of risk, for each type of insurance?
- Where gaps exist, is there international data that is sufficiently relevant and robust to provide a good proxy for Australian data?
- In what areas is there little prospect of getting appropriate data, meaning alternative underwriting practices would need to be used? What conditions should apply to insurers using alternative practices?

In order for the findings to be robust, it is highly desirable that the independent party carrying out the study be given access to any data the insurance industry currently holds, including proprietary data. Industry data would remain confidential and only be used to ascertain and describe the nature and quality of existing data. To give insurers, mental health stakeholders and consumers confidence, it is essential that the study be carried out by an independent actuarial expert, that mental health stakeholders have input into the terms of reference, and that the findings are released publicly.

The issues raised in this submission have been on the record since the Human Rights and Equal Opportunity Commission first reported on them in 1993. The insurance sector has had ample time to self-regulate and provide equal access to insurance for Australians with mental illness, who should have the right to manage their financial affairs on the same terms as the rest of the community.

I would be happy to answer any questions the Committee might have regarding the issues raised above.

Yours sincerely

Frank Quinlan
CEO

