

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
CANBERRA ACT 2600

By email to: corporations.joint@aph.gov.au

Dear Committee Secretary

Re: Inquiry into the life insurance industry

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide a response to the Joint Parliamentary Committee on Corporations and Financial Services' current inquiry into the life insurance industry (the Inquiry).

The RANZCP wishes to comment on a matter that affects all aspects of Australia's life insurance industry – that is, the treatment of people who have a past or current mental illness and who have or are seeking life insurance policies and associated income protection or trauma policies.

We strongly support the need for consumers to be aware of their rights and obligations when applying for insurance, including the need to fully disclose any relevant information when applying, varying or renewing their life insurance.

The RANZCP is pleased to see recent initiatives such as the introduction of the Financial Services Council member standard *Mental Health Education Program and Training*, which aims to ensure that organisations providing information to consumers about life insurance receive appropriate education and training in mental health awareness.

However, the RANZCP considers that much more needs to be done with regards to the treatment and needs of people with mental illness. In particular, the RANZCP considers that discrimination against people with mental illness who are applying for, or claiming on, insurance policies is a long-standing issue.

Please see the attached submission which we hope will be of assistance in the Inquiry.

If you would like to discuss any of the issues raised in the submission, please contact

Yours sincerely

Professor Malcolm Hopwood
President

Ref: 0525o

Joint Parliamentary Committee on Corporations and Financial Services'
inquiry into the life insurance industry

November 2016

advocating for
equitable access to
services

Royal Australian and New Zealand College of Psychiatrists submission Joint Parliamentary Committee on Corporations and Financial Services' inquiry into the life insurance industry

About the Royal Australian and New Zealand College of Psychiatrists

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is a membership organisation that prepares doctors to be medical specialists in the field of psychiatry, supports and enhances clinical practice, advocates for people affected by mental illness and advises government on mental health care. The RANZCP is the peak body representing psychiatrists in Australia and New Zealand and as a binational college has strong ties with associations in the Asia-Pacific region.

The RANZCP has more than 5000 members, including around 3700 fully qualified psychiatrists and almost 1200 members who are training to qualify as psychiatrists. Psychiatrists are clinical leaders in the provision of mental health care in the community and use a range of evidence-based treatments to support a person in their journey to recovery.

Introduction

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide a response to the Joint Parliamentary Committee on Corporations and Financial Services' inquiry into the life insurance industry (the Inquiry). The RANZCP wishes to comment on a matter that affects all aspects of Australia's life insurance industry – that is, the treatment of people who have a past or current mental illness and who have, or are seeking, life insurance policies and associated income protection or trauma policies. This bears particular relevance to term of reference (a) the need for further reform and improved oversight of the life insurance industry; and potentially (c) whether entities are engaging in unethical practices to avoid meeting claims.

We strongly support the need for consumers to be aware of their rights and obligations when applying for insurance, including the need to fully disclose any relevant information when applying, varying or renewing their life insurance.

The RANZCP is also pleased to see recent initiatives such as the introduction of the Financial Services Council member standard *Mental Health Education Program and Training*, which aims to ensure that organisations providing information to consumers about life insurance receive appropriate education and training in mental health awareness.

However, the RANZCP considers that much more needs to be done with regards to the treatment and needs of people with mental illness. In particular, the RANZCP considers that discrimination against people with mental illness who are applying for, or claiming on, insurance policies is a long-standing issue.

Mental Health Council of Australia and Beyond Blue consumer survey

The 2011 Mental Health Council of Australia (now Mental Health Australia) and beyondblue's [Survey of consumer experiences with the insurance industry](#) provides an overview of consumers' experiences with life insurance companies. Their findings strongly suggest that people with a current or former mental illness still regularly experience discrimination in applying for and/or seeking to claim on life or associated insurance policies. For example:

- 35% of respondents strongly agreed it was difficult for them to obtain any type of insurance as they had experienced mental illness.
- 67% agreed it was difficult to obtain life and income protection insurance.

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- 45% said their application for income protection was declined due to mental illness.
- 50% obtained insurance cover but either paid more or faced exclusions for mental illness claims.

Overall, the survey found that mental illness was less likely to be treated as an insurable illness than physical illnesses and that consumers had a range of negative experiences. For instance, consumers reported:

- a lack of awareness of their rights and responsibilities in relation to insurance applications, including their duty of disclosure, or right to appeal
- excessive restrictions on their policies, finding themselves being required to pay increased premiums and/or outright rejection of their applications and claims when a history of mental illness was disclosed
- that insurers were relying upon stigmatised assumptions of mental illness when assessing applications and claims, and not taking into account the type of illness, severity, prognosis or consequences for longevity or income-earning capacity
- feeling that the approach of the insurance industry was incompatible with their experience of mental illness and that interactions with insurers could be stressful and negatively impact their health and well-being – this included being asked to commit to timelines for recovery and being questioned about suicide in ways that felt violating, embarrassing and undignified
- that, even if they proactively managed their illness, they still felt penalised as seeking treatment meant that their insurance application would be denied, even though it decreased their risk.

Complaints documented by the Australian Human Rights Commission

The Australian Human Rights Commission has documented complaints under the *Disability Discrimination Act 1992* where consumers have complained of discrimination on the basis of mental illness. Examples from the Australian Human Rights Commission website include:

- A man who was receiving treatment for a depressive illness complained that he had been refused income protection insurance. The complaint was resolved when the insurer advised that it had re-assessed the application and would provide cover, apologised and agreed to provide \$10,000 compensation.
- A man who has bipolar disorder complained that he had been refused life and income protection insurance. The complaint was resolved when the insurer agreed to issue him a policy with an exclusion clause for events caused by his pre-existing condition.
- A woman who had experienced episodes of depression in the past complained that she had been refused income protection insurance. The insurer had advised that it could not offer a policy with exclusions for depression-related claims and therefore had to refuse cover completely. The complaint was settled when the insurer revised its policy and agreed to provide cover with an exclusion for depression.
- A woman who had a depressive illness complained that she had been discriminated against when her application for income protection insurance was refused and no alternative offered such as coverage with a depression exclusion clause. The complaint was settled with payment of \$4000 compensation.

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- A woman who had experienced post-natal depression (PND) complained that she had been discriminated against by being refused insurance. She complained of sex discrimination as well as disability discrimination, since PND only affects women. The insurer responded that it assessed PND in the same way as other forms of depression based on underwriting manuals which do not make distinctions as to the cause of depression. After a conciliation conference the insurer agreed to provide insurance coverage at standard rates as she was able to provide medical evidence that she had recovered from PND. The insurer also agreed to pay compensation and to write to the international underwriting companies it deals with to highlight the fact that PND is a specific category of depression with different effects and duration to other forms of depression.

Human Rights and Equal Opportunity Commission report

Over 20 years ago, the Human Rights and Equal Opportunity Commission's *Report of the National Inquiry into the Human Rights of People with Mental Illness* (the Report) found that, despite improvements in mental health treatments, the insurance industry 'remains unjustifiably cautious – to the point of discrimination – in its assessments of risk in this area'. The Report, therefore, recommended that insurance companies and superannuation schemes should ensure that eligibility criteria do not discriminate against people affected by mental illness. However, this continues to be an ongoing issue twenty years later.

Conclusion

It is illegal in Australia to discriminate because of a person's disability (which includes a mental illness). Nonetheless, life insurers are permitted by the *Disability Discrimination Act 1992* to offer applicants for insurance different terms based on the risk that they present provided that they are basing this discrimination on actuarial data, statistics or other evidence on which it is reasonable to rely.

However, in relation to insurers' decisions about applications or claims from people with mental illness, it is far from clear what data insurers might rely on to make these decisions or what they might consider 'reasonable' evidence to justify their reasoning for such different treatment of people with mental illness.

In the RANZCP's view, much more needs to be done to improve the transparency of decisions made by life insurance companies in this context and to enhance the experience of people with mental illness who are seeking to apply for, and/or claim from, their life insurance policies.

To assist with this, the RANZCP recommends the following measures:

- that the Australian Government:
 - conduct an independent study on the data that the insurance industry currently holds about the risks associated with mental illness for different kinds of insurance
 - create a guide to insurance policies for people with a mental illness
- that the life insurance industry consults with mental health stakeholder organisations to:
 - work towards removing inaccurate and misguided clauses relating to mental illness in insurance policy documents
 - establish appropriate policies for garnering relevant medical information about individuals that respect the confidentiality of medical records.