8 May 2026

Dear Mr Kell,

Re: Life Code Independent Review Interim Report

We write to you in our capacity as academics with recognised expertise in blood-borne viruses and the law, as well as a broader research focus on discrimination impacting LGBTIQA+ communities and sex workers, each highly stigmatised populations that are too often overlooked in policymaking and development. We write alongside lawyers from Australia's only blood-borne virus specialist legal centre, the HIV/AIDS Legal Centre ('HALC'), who have extensive experience advising clients discriminated against in the provision of life insurance.

We contributed to the Joint Consumer Submission in response to the initial Consultation Paper. Whilst we understand that the Reviewer is not looking for a restatement of earlier submissions, we are also concerned that our feedback has not been responded to in the Interim Report. Thus, we make the following submissions addressing recommendations from the Reviewer in the Life Code Independent Review Interim Report.

Our submission proceeds in three parts. First, we welcome some of the recommendations in the Interim Report. Second, we restate and provide some additional context to some of the recommendations from the Joint Consumer submission that have not been responded to in the Interim Report. Third, we request a meeting with the Reviewer to discuss our submission and feedback. In our view, the Interim Report ignores certain consumer cohorts experiencing vulnerability that should be included in the Final Report.

What the Interim Report delivers

We welcome **Recommendation 2** of the Interim Report, which would revise the Code's current provisions in section 4 setting out required information for applicants declined cover or offered cover on non-standard terms to:

- provide applicants written reasons; and
- require a plain English summary of the statistical and actuarial evidence and other data relied on by the insurer in making their decision, with sufficient detail to enable the consumer to understand how this information relates to the decision on their application.

However, the Interim Report states that this recommendation is limited to decisions 'for mental health'. This is confusing as the current provisions in the Code, including clauses 4.22 and 4.25, apply to the information provided in *any* decision to decline cover or offer alternative terms. If these provisions were limited to decisions 'for mental health', they are also likely to be misapplied in practice, especially where a decision to decline cover or offer alternative terms has been made based not on mental health alone but a combination of reasons (or co-existing illnesses). No legislative provision that requires insurers to provide

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applicants (or a tribunal in anti-discrimination proceedings) with insight into the data or evidence underlying decisions stipulates that this requirement only applies to consumers based on certain protected attributes/health conditions.[1] They apply regardless of the health condition a consumer lives with. In our view, therefore, this recommendation should not be limited to decisions concerning mental health but to *any* decision to decline cover or offer alternative terms.

We also welcome **Recommendation 11** of the Interim Report, which would revise the Code's current provisions in clause 6.1 to add 'sexual orientation, gender identity and sex characteristics' as potential risk factors contributing to vulnerability.

As the Interim Report notes, this recommendation is 'consistent with the *Worth the Risk* report which found that LGBTIQA+ inclusion was not being consistently achieved by insurers' practices.'

What the Interim Report ignores

Unfortunately, the Interim Report ignores many of the recommendations of the Joint Consumer Submission, which we expand on here with a focus on certain consumer cohorts experiencing additional vulnerability, adding further details and context.

LGBTIQA+ customers

Whilst the Interim Report has made one recommendation drawing from the recommendations in the landmark *Worth the Risk* report into LGBTIQA+ experiences with insurance providers, it has ignored others.

Recommendation 19(a): *In line with the recommendations of the Worth the Risk report the Life Code should include … a provision in Clause 2.1 that insurers will design new products that do not discriminate against consumers based on their sexual orientation, gender identity, or intersex status, consistent with obligations under the Sex Discrimination Act 1984 and equivalent state and/or territory law.*

This recommendation accords with Recommendation 1 of the Life Code Compliance Committee submission that 'the Code should include a commitment by insurers to deliver services that are inclusive and accessible for all customers.'

Recommendation 20: *The Life Code should also include a new section in Chapter 4 on LGBTIQA+ customers, including the following:*

> *a. a provision that insurers will not impose exclusions or premiums based solely on the applicant's sexual orientation, gender identity, or sex characteristics*
>
> *b. a provision that insurers will ensure that:*
>
> > *i. data on sexual orientation, gender identity or variation of sex characteristics, are only collected where reasonably required*

[1] See *Sex Discrimination Act 1984* (Cth) s 41; *Anti-Discrimination Act 1998* (Tas) s 44; *Discrimination Act 1991* (ACT) s 28; *Equal Opportunity Act 1984* (SA) s 89.

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ii. the reasons for collection of data on sexual orientation, gender identity or variation of sex characteristics and privacy protections in place are made clear at the point of collecting the data

iii. questions are asked in a sensitive and gender-neutral manner as far as is practicable

iv. titles are only used where required

v. non-binary options for gender and titles are included

vi. policies are in place directing staff do not default to certain genders or titles based on assumptions about a customer's gender or that of their partner

vii. dead names and former genders or titles are removed from all records, except where required under law

viii. all systems are updated when a customer changes their name, gender, or title

ix. a customer who is changing their name, gender or title need only speak to one customer service representative.

This is consistent with Recommendations 14 and 15 of the *Worth the Risk* report.

Blood-borne viruses

As outlined in more depth in the Joint Consumer Submission, access to life insurance remains a significant concern for people with blood-borne viruses, including HIV and hepatitis. Despite medical advancements that have dramatically improved life expectancy and health outcomes, people with HIV continue to be denied insurance coverage or offered coverage on substantially less favourable terms, reinforcing stigma and financial insecurity. Consumers also report concerning interactions with insurance providers, such as being asked questions irrelevant to actuarial risk, like how they acquired HIV.

We note that CALI has updated the Life Code to introduce commitments regarding HIV and AIDS, reflecting advances in medical treatment and addressing inappropriate underwriting practices for insureds taking PrEP which were out of step with evidence that this form of preventive health practice reduces (rather than increases) a customer's risk profile. Whilst a review of insurers indicates that all have taken actions to comply with the new Life Code requirements (see **Appendix A**), some still maintain exclusions for HIV/AIDS while failing to make consumer information easily accessible on their websites.

These concerns are not unique to HIV. In relation to hepatitis, people with hepatitis C are still routinely refused insurance or dissuaded from applying for insurance,[2] with community organisation Hepatitis Victoria advising that 'chronic hepatitis is considered a "risk" to many insurance providers, and you may not be approved for a policy or the costs may be increased.'

[2] Sean Mulcahy et al, 'Insurance discrimination and hepatitis C: Recent developments and the need for reforms' (2023) 23 *Insurance Law Journal*.

Recommendation 21: *For ease of reading, the Life Code should separate out the provisions on mental health [clauses 4.12-4.14], family medical history [clauses 4.15-4.16], genetics [clause 4.17], and HIV [clause 4.17A-4.17C].*

Recommendation 22: *The Life Code should:*

a. expand the provisions on HIV at Clauses 4.17A-C to other blood-borne viruses, such as hepatitis C

b. update the phrase "Human Immunodeficiency Syndrome" to "Human Immunodeficiency Virus"

c. update Clause 4.17C to require consumer information to be reviewed annually

d. include an additional provision that people with (a history of) blood-borne viruses will only be asked questions directly relevant to assessing their insurance risk

e. include an additional provision that insurers will not impose blanket exclusions for blood-borne viruses but, where risk necessitates coverage of people with blood-borne viruses on less favourable terms, may impose higher premiums or exclusions

f. include an additional provision that, where a blood-borne virus is being managed or has been cured through treatment, insurers will review, with a view to removing, exclusions or premium loadings

g. include an additional provision that insurers will annually review and update the statistical and actuarial evidence and other material relied on in their underwriting decisions, so as to not rely on out-of-date or irrelevant sources of information

h. include an additional provision that, where medical evidence is obtained to assist in assessing an application for coverage, it will be reviewed by people with requisite expertise in blood-borne viruses.

Recommendation 23(c): *Clause 4.25 of the Life Code should be amended to require insurers to inform applicants about both the insurer's complaints process and external dispute mechanisms.*

We welcome **Recommendation 2** of the Interim Report to revise the Code's current provisions in section 4 that set out required information for applicants declined cover or offered cover on non-standard terms. However, provision of information on complaints processes and external dispute mechanisms to consumers declined cover or offered alternative terms should also be mandated. We submit this is an important step in addressing an information-imbalance between consumers and insurers and ultimately ensuring accountability for insurers in making decisions with potential to impact a consumer's (and loved one's) future financial security. In HALC's experience, people with HIV denied insurance coverage are often not made aware of review or complaint options available to them.

Recommendation 24: *The Life Code should be amended to reinstate a commitment that insurers will explicitly comply with anti-discrimination laws in decision-making.*

This recommendation accords with Recommendation 1 of the supplementary submission from the Council of Australian Life Insurers; however, for the avoidance of doubt, this should be included in addition to, not in lieu of, clause 2.1(b) of the Code.

Recommendation 25: *CALI should establish a working group to enable insurance providers to collaborate with HIV and hepatitis organisations to implement the requirements of the Life Code relating to HIV and other blood-borne viruses, including ensuring that assessment processes and risk evaluation questions are as appropriate, relevant, and non-stigmatising as possible.*

Recommendation 26: *The LCCC should conduct an inquiry on how insurers approach decisions for customers who disclose HIV or other blood-borne viruses that includes:*

a. insurers' procedures and policies implemented to ensure compliance with requirements of the Life Code and anti-discrimination legislation relating to HIV and other blood-borne viruses

b. statistics on coverage denials or less favourable terms offered to people with HIV and other blood-borne viruses.

Recommendation 27: *CALI should work with the FSC to remove or update its HIV/AIDS underwriting guidelines to reflect recent updates to the Life Code.*

Sex work

Life insurance can be difficult to obtain for sex workers. The *Worth the Risk* report found that 83% of respondents who were a current or former sex worker had experienced discrimination or exclusion by an insurance advisor or broker. The occupational categorisation of sex work often sees sex workers excluded from life insurance or subject to restrictive definitions and conditions. Over 70% of sex workers experienced intrusive questioning, including questions about sexual history and questions on insurance forms using outdated language like 'prostitute', which may dissuade sex workers from disclosing their occupation in applications and claims.

Recommendation 28: *The Life Code should include a new section in Chapter 4 on sex work, including the following:*

a. a provision that sex work is treated like any other occupation in determining the cover insurers offer

b. a provision that sex workers will only be asked questions about that work directly relevant to assessing their insurance risk and that irrelevant questions will not be asked about sex work as part of an underwriting assessment

c. a provision that insurers will annually review and update the statistical and actuarial evidence and other material relied on in their underwriting decisions in relation to sex work, including occupational risk ratings, so as to not rely on out-of-date or irrelevant sources of information

d. a provision that insurers will provide clear, publicly accessible information regarding coverage options and conditions for people who are sex workers, and

e. a provision that insurers will not impose exclusions or premiums based purely on the applicant's history of providing sex work.

The path forward

We request a meeting with the Reviewer to discuss our submissions and feedback. We understand that the Reviewer has held over 40 meetings with stakeholders to discuss issues in the review, and we would welcome the opportunity to similarly engage, provide further information that may be of assistance, and receive the Reviewer's response to these submissions. This would build mutual understanding and offer the chance to discuss alternative approaches.

We respectfully ask for the Reviewer's careful engagement with our submissions given that best practice approaches to providing customers experiencing vulnerability with appropriate service and extra care were highlighted as an area of particular focus for the Review. The Interim Report has, except for one Recommendation, ignored the LGBTIQA+ community, people with blood-borne viruses, and sex workers, each cohorts experiencing vulnerability.

We thank you for your consideration and look forward to your response.

Kind regards,

Dr **Sean Mulcahy** – Australian Research Centre in Sex, Health & Society, La Trobe University

Prof **Kate Seear** – Deakin Law School, Deakin University

Prof **Carla Treloar** – Centre for Social Research in Health, University of New South Wales

Assoc Prof **David Carter** – Faculty of Law and Justice, University of New South Wales

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Appendix A – Review of insurers complian with new Life Code requirements on HIV

Insurer	Code requirement Does the insurer "publish on our website consumer information about underwriting related to HIV and AIDS"?	Best practice Is the consumer information on a clearly accessible part of the website?	Code requirement Does the insurer "publish whether our on-sale products have exclusions for HIV or AIDS"?	Best practice Do the insurer's products have exclusions for HIV/AIDS?
Acenda	Yes - https://www.acenda.com.au/support/customer/people-living-with-hiv	Yes	Yes	Yes – "the insurance may be subject to… exclusions"
AIA	Yes - https://www.aia.com.au/en/help-and-support/applying-for-life-insurance-with-hiv-and-aids	Yes	Yes	No
Allianz	Yes - https://www.allianz.com.au/life-insurance.html#	Yes, but in a FAQ	Yes	Yes – all
Australian Retirement Trust t/a QSuper	Yes - https://qsuper.qld.gov.au/insurance	Yes, but in a FAQ	Yes	No
Challenger[3]	No			
ClearView	Yes - https://www.clearview.com.au/faq/	Yes, but in a FAQ	Yes	No
Combined Insurance[4]	No			
Golden Insurance	Yes - https://www.goldeninsurance.com.au/applying-for-life-insurance-if-you-are-living-with-hiv/	Yes	Yes	No
HCF	Yes - https://www.hcf.com.au/insurance/life-recover-cover/living-with-hiv	Yes	Yes	No
MetLife	Yes - https://www.metlife.com.au/metlife-articles/insurance/life-insurance-HIV/	No	Yes	No
NEOS	Yes - https://www.neosprotect.com.au/applying-for-cover-with-hiv/	Yes	Yes	Yes – "we may… include exclusions"
NobleOak	Yes - https://www.nobleoak.com.au/about-us/living-with-hiv-faqs/	Yes	Yes	Yes – "we may… add… exclusions to your policy"
PPS Mutual	Yes - https://www.ppsmutual.com.au/supporting-members/	Yes, but on a general page	Yes	Yes – "we may offer you cover… with exclusions"
Resolution Life	Yes - https://resolutionlife.com.au/help-centre	Yes, but on a general page	Yes	Yes – "policies may have… exclusions"
TAL	Yes - https://www.tal.com.au/existing-customers/support-for-customers/living-with-hiv	Yes	Yes	Yes – "we may… add… exclusions to your policy"
Zurich	Yes - https://www.zurich.com.au/latest-news/magazine/lgbtq-hub/life-insurance-if-you-are-hiv-positive	No	Yes	Yes – "you may be… offered a policy with exclusions"

[3] Not a Code subscriber, as they provide only annuities and investment products, which are not covered by the Code: clause 1.8(d).

[4] Has ceased to provide policies.

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