

23 January 2020

Professor Stephen King
Presiding Commissioner
Mental Health Inquiry
Productivity Commission

Lodged via online form

Dear Professor King,

MENTAL HEALTH: PRODUCTIVITY COMMISSION DRAFT REPORT

The Insurance Council of Australia¹ commends the Productivity Commission on a comprehensive draft report on mental health (the Draft Report). The Insurance Council recognises that our society needs to do much more to address the significant social, economic and personal costs of mental illness. We believe the insurance industry can play an important role in helping those with mental health conditions enjoy the quality of life available to other Australians.

We wish to address three matters relevant to general insurance raised in the Draft Report:

1. Better Data Collection
2. Insurance Code of Practice and Financial Inclusion
3. Workers Compensation

Better Data Collection

The Insurance Council recognises that it is socially desirable to improve insurance availability, in terms of premium levels and coverage, for people with a mental health condition. They should be able to, as far as possible, participate as full members of our community. While important on an individual basis, it is essential for the Australian community as a whole given it is estimated that nearly half of all Australians will experience a mental health condition in their lifetime.

¹ The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent about 95 per cent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. September 2019 Australian Prudential Regulation Authority statistics show that the general insurance industry generates gross written premium of \$49.5 billion per annum and has total assets of \$128.3 billion. The industry employs about 60,000 people and on average pays out about \$155.1 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

Insurance products are in essence contracts where an insurer assesses the level of risk they are willing to take on, having regard to commercial considerations. In doing so, insurers are bound by section 46 of the *Disability Discrimination Act 1992* (Cth) not to discriminate unless exclusions are based, where possible, upon actuarial or statistical data. Insurers face challenges with sourcing good statistical data for use in underwriting. There is a lack of appropriate data readily available to properly assess risks associated with mental health conditions.

Better data is needed for insurers to better price and assess risk and create more narrow exclusions in relation to mental health claims. As the Productivity Commission has recognised, there is a large amount of data collection that already occurs such as public sector statistical data on mental health, including the National Survey of Mental and Wellbeing.

However, much of this data is 'information poor' and of limited use for underwriting purposes and therefore doesn't contribute as it should to delivering better access. Issues include that the data collected often relates to a common item but is measured in slightly different ways and may not form a continuous data set. The classification of mental health conditions may differ. The datasets often do not count individuals but rather the number of admissions. Data is also not available over long time periods.

Data needs to be collected and organised more effectively to provide actionable insights into mental health that insurers can use to better price risk and refine underwriting practices, making insurance more affordable and accessible.

As well as better data collection and organisation, there should be a commitment to publicly available data being as up to date as possible. We agree with the Report's recommendation 25.2 that routine national surveys should be conducted. The National Survey of Mental Health and Wellbeing, the most comprehensive public mental health data collection, is already over a decade old. Data collection should include information about the outcomes of people with mental health conditions undertaking various programs, as per Report recommendation 25.2. It should help insurers better account for the prevalence of different types of conditions and their prognosis. This more granular data would enable insurers to more accurately price and assess mental health risk.

The Draft Report correctly identifies that improving accessibility for people with a mental health condition will require improved monitoring, reporting and evaluation through a comprehensive and nationally consistent framework. It proposes that the National Mental Health Commission be tasked with leading the evaluation of mental health and suicide prevention programs. We submit that the Australian Institute of Health and Welfare would be better equipped to collect data on mental health. It has the necessary proven capabilities and experience in collecting data for health. Insurers should be given access to the data within an agreed framework.

We also note that the Insurance Council's submission to the Productivity Commissions 2016 Data Availability and Use draft report agreed with the Commission's proposal for the Federal Government to establish a process to designate mental health data as National Interest Datasets. These datasets could help to facilitate the development of consistent data standards across the range of data custodians in government and potentially the private

sector. Whilst the Government accepted this recommendation, it does not appear that datasets have been designated to date. This could be worth revisiting.

The Insurance Council would be keen to work with Governments at all levels on the implementation of Recommendation 25.3. The Insurance Council would like to contribute to strategies for better data collection to address data gaps, so that data is collected in a way that imposes the least regulatory burden, is high quality and published in a way that is useful for insurance underwriting and better assessing mental health risks.

The Insurance Council would also want to work closely with whatever body is tasked with collecting data, to identifying the kind of data which would be useful for improving underwriting in relation to mental health risks. The Insurance Council has had a number of internal discussions with its members and with the Financial Services Council around improving the available of health data to support better insurance underwriting.

General Insurance Code of Practice and Financial Inclusion

Insurance Council members encourage the Productivity Commission to have regard to the new 2020 General Insurance Code of Practice and its timing for commencement when developing draft recommendation 20.2.

On 1 January 2020, the Insurance Council published an updated General Insurance Code of Practice^[1], following an extensive 2 year review of the 2014 Code that took into account feedback from Insurance Council members, ASIC, consumer representatives, the Code Governance Committee, FOS (a predecessor Ombudsman scheme to the Australian Financial Complaints Authority (AFCA)) and other interested parties^[2]. The updated Code has been approved by the Insurance Council's Board. Code subscribers have until 1 January 2021 to complete their transition to the updated Code.

The updated Code recognises the diverse and varying needs of individuals experiencing vulnerability, including those with a mental health condition, by devoting a new Part 9 to *Supporting customers experiencing vulnerability*. We firmly believe Part 9 goes towards being inclusive and meeting the changing needs of the whole Australian community, as well as promoting accessibility, as outlined in the principles that underpin the updated Code.

Part 9 introduces new industry standards for supporting customers experiencing vulnerability across the general insurance sector by including:

- a new commitment that general insurers will take extra care with customers who are experiencing vulnerability, including those experiencing mental health conditions, while acknowledging that vulnerability may be due to a wide range of factors that can change over time and give rise to unique needs;
- a new provision that general insurers will have internal policies and training that are appropriate to employee roles to improve staff awareness and understanding of vulnerability and how to best support and take into account a customer's unique needs;

^[1] Insurance Council of Australia, [General Insurance Code of Practice \(published 1 January 2020\)](#)

^[2] See: <http://codeofpracticereview.com.au/>

- a new provision focused specifically on mental health, that general insurers will develop internal processes and procedures that take into account mental health considerations by:
 - at a minimum, designing and selling products, as well as applying their terms in compliance with Federal, State and Territory anti-discrimination laws;
 - treating customers with a past or current mental health condition fairly;
 - only asking relevant questions when deciding whether to provide cover for a pre-existing mental health condition; and
 - telling customers of their right to ask for the information a general insurer has relied on if the general insurer tells the customer they cannot provide cover for a particular condition.

The Insurance Council has also published a principles-based *Guide on mental health*^[3] to assist our members with their transition to their new Code obligations.

We anticipate that as the updated General Insurance Code of Practice takes effect, it will play an important role in improving the experience of vulnerable customers. The Insurance Council is of the view it would be premature for ASIC to review the effectiveness of the Code's new vulnerability provisions with respect to mental health only after one year of the new obligations being in place. The Code sets out the means for regular review and requires the Insurance Council to consult with the Code Governance Committee, AFCA, consumer and industry representatives, relevant regulators and other stakeholders to develop the Code on an ongoing basis. In addition, at least every 3 years the Insurance Council will commission a formal, independent review of the Code.

The Role of Workers Compensation

We refer to chapter 19 of the Draft Report and the Productivity Commission's workplace reform objective draft recommendations.

The Insurance Council supports reform to make psychological health and safety as important as physical health and safety in Workplace Health and Safety (WHS) arrangements. The Insurance Council continues to collaborate with relevant stakeholders in exploring best practice, procedures, as well as supporting codes of practice that will help employers, in particular small businesses, to manage their workplace mental health risks and hazards.

We note the Productivity Commission's recommendation that workers compensation schemes should provide clinical treatment for mental health related workers compensation claims, regardless of liability, for up to six months following lodgment of a workers compensation claim. The Insurance Council can see the merit in this proposal in that it provides for early intervention and treatment which may improve health and return to work outcomes.

The Insurance Council, in-principle, supports the short-term response that clinical treatment be provided upon lodgment of mental health related claim. However, the provision of

^[3] [Guide on mental health: To support the Insurance Council of Australian's General Insurance Code of Practice](#) (published 1 January 2020)

treatment be accompanied with explicit monetary limits as well as appropriate controls for insurers to ensure scheme sustainability. It is critical the insurance industry be included in any discussions developing the appropriate controls. Further, for the draft recommendation's objective to be effective, it will be important that the supply chain for services is robust to cope with potential demand.

Finally, the Insurance Council believes that the work of SafeWork Australia to harmonise the separate workers compensation schemes should be reinvigorated. Harmonisation would provide greater certainty for claimants and employers, whilst insurers would be able to reduce costs associated with maintaining systems for different jurisdictions.

If you have any questions or comments in relation to our submission please contact John Anning, Head of Policy, Regulation Directorate, on telephone: 02 9253 5121 or email: janning@insurancecouncil.com.au.

Yours sincerely



Robert Whelan
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