



Victorian Pride Lobby

Worth the Risk

LGBTIQA+ experiences with insurance providers

Table of contents

| | |
|--|-----------|
| Introduction | 3 |
| Executive summary | 4 |
| Background and methodology | 5 |
| Legal issues | 6 |
| General sentiments | 7 |
| Perceptions of insurance | 7 |
| Experiences of insurance | 7 |
| Actions | 9 |
| Insurance products | 10 |
| Health insurance | 11 |
| Car, motor, recreational vehicle, or caravan insurance | 12 |
| Travel insurance | 12 |
| Home building, contents, landlord or strata insurance | 13 |
| Life insurance | 13 |
| Business insurance | 14 |
| Population groups | 15 |
| People living with HIV | 15 |
| Disclosure | 16 |
| Coverage | 17 |
| Travel | 20 |
| People with a variation of sex characteristics | 20 |
| Disclosure | 20 |
| Genetic discrimination | 21 |
| Trans and gender diverse people | 22 |
| Updating gender | 23 |
| Coverage | 26 |
| Gender ratings | 28 |
| Sex workers | 29 |
| General sentiments | 30 |
| Insurance products | 30 |
| Rainbow families | 31 |
| Assisted reproductive treatment | 31 |
| Surrogacy | 32 |
| People experiencing mental health issues | 32 |
| All recommendations | 34 |

Introduction

Research suggests that 3%-4% of the population are lesbian, gay or bisexual; 1% are transgender; and 1.7% have an intersex variation.¹ The Victorian Pride Lobby has conducted a survey of 493 lesbian, gay, bisexual, transgender, intersex, queer and asexual (LGBTIQ+) community members about their experiences with insurance providers.

Often, LGBTIQ+ customers are framed as a risk - because of our health, industries that we work in, or on other grounds. What we want to say is that we are “worth the risk” and, moreover, any assumed risk can often be attributed to outdated assumptions that need to be challenged. Whilst all customers are encouraged to tell insurers about their vulnerability so that insurers can work with the customer to arrange support, many LGBTIQ+ customers may be reluctant to disclose information about their sexual orientation, gender identity or sex characteristics to their insurer because of a fear of discrimination or exclusion.

The General Insurance Code of Practice states that insurers “are committed to taking extra care with customers who experience vulnerability” and their “unique needs”,² but the Code does not include sexual orientation, gender identity and sex characteristics as factors that cause vulnerability,³ and the Life Insurance Code of Practice does not mention vulnerability at all.⁴ Whilst the Association of Superannuation Funds of Australia recognises that LGBTIQ+ people face specific issues that make them vulnerable,⁵ there is limited research on and recognition of the vulnerabilities that LGBTIQ+ consumers face when accessing insurance. This research seeks to redress that, acknowledging that, when we talk of vulnerability, it is not a person’s sexual orientation, gender identity or sex characteristics that is the reason for their disadvantage, but rather the failure of institutions and wider society to ensure that everyone has equal access to services and equal rights when dealing with service-providers. Insurers have a role to play in redressing this.

Our report sets out the legal issues that insurers must take account of in relation to LGBTIQ+ consumers, as well as general sentiments from amongst our respondents. This includes respondents’ perceptions of insurance and experience of insurance - from applying to updating details through to claiming and, in some cases, complaining. The report sets out recommended actions that insurers can take to improve practices.

We then go on to consider specific insurance products and the issues with each. We consider issues with mental health coverage, gendered risk ratings and how these impact trans and gender diverse people, as well as coverage for people living with HIV and people working in the sex industry. We also consider the issues facing different population groups, including disclosure and coverage issues for people living with HIV; disclosure issues for people with variations of sex characteristics and genetic discrimination they may face; and the difficulties that trans and gender diverse people have with updating their gender and obtaining coverage for gender affirmation procedures. We also explore coverage for assisted reproductive treatment, surrogacy and for sex workers and sex industry workers.

A continuous theme in the research is the need for respect. We hope this report can guide the insurance industry in providing respectful treatment to LGBTIQ+ people seeking insurance. Whilst many insurers celebrate diversity amongst their workforce and at pride events, it is equally important that they address and respect the diversity of their customer cohort. It is the least we expect.

¹ Marina Carman et al, *Research Matters: How Many People are LGBTIQ?* (2020) 3.

² Insurance Council of Australia, *General Insurance Code of Practice* (2021) 31.

³ Insurance Council of Australia, *General Insurance Code of Practice* (2021) 31.

⁴ Financial Services Council, *Life Insurance Code of Practice* (2019).

⁵ Association of Superannuation Funds of Australia, *Guidance Note: Insurance in Superannuation - Developing a Vulnerable Member Policy* (2021) 22.

Executive summary

This report provides 24 recommendations to improve LGBTIQ+ inclusion amongst insurance providers.

LGBTIQ+ inclusion needs to be led from the top. Peak bodies, such as the Insurance Council of Australia and the Financial Services Council, have an important role to play through the guidance they provide. The Financial Services Council should update its Life Insurance Code of Practice to include more explicit guidance on vulnerable customers, including LGBTIQ+ people and updating its HIV underwriting guidelines to ensure they reflect the advent of new treatments for HIV (Recommendations 4, 5 and 8).

All insurers should provide publicly available information on whether and how LGBTIQ+ people are covered by their insurance policies, and tailored information for different population groups developed in consultation with peer organisations (Recommendations 3, 7, 11, 16 and 19). In addition to the information, insurers' communications and marketing material should also include depictions of LGBTIQ+ people and inclusive language (Recommendation 2). To ensure that products are accessible, insurers should also provide staff training on LGBTIQ+ inclusion and on responding to customers with a mental health condition (Recommendations 1 and 24).

There are a number of specific issues facing different population groups. For people living with HIV, insurers should ensure applicant questions are asked in a sensitive manner, that actuarial and statistical data accords with current medical advice, and that unnecessary exclusions or premium loadings are removed (Recommendations 6, 9 and 10).

Similarly, insurers should ensure questions about sex work are asked in a sensitive manner and unnecessary exclusions are removed (Recommendations 18 and 19).

Insurers should heed the call in the [Darlington Statement](#), a community consensus statement by intersex organisations and advocates, for “an end to genetic discrimination, including in insurance”⁶ by training staff on the use of genetic information and ensuring any exclusions or increased pricing based on genetic conditions are as minimal as possible (Recommendation 13).

Insurers should review their practices on the collection of data regarding sex and gender and to ensure that a customer who is changing their name, gender or title need only speak to one customer representative (Recommendations 12, 14 and 15). Peak bodies should also work with insurers to develop a consistent approach for risk rating based on sex or gender (Recommendation 17).

For rainbow families, insurers should provide information on whether assisted reproductive treatment and surrogacy are covered by their insurance policies and what steps need to be taken by those seeking cover (Recommendations 20 and 21).

Noting the disproportionate level of mental health conditions amongst LGBTIQ+ people, insurers should implement policies and procedures to support customers with a mental health condition and ensure exclusions or increased pricing based on mental health conditions are as minimal as possible (Recommendations 22 and 23).

Through implementing these recommendations, insurers can improve inclusion of LGBTIQ+ customers and ensure that they and their products are more accessible to those who need them.

⁶ *Darlington Statement: Joint Consensus Statement from the Intersex Community Retreat in Darlington (2017).*

Background and methodology

In early 2021, the Victorian Pride Lobby published *Pride and Power*, a report which sought to redress the limited research on and recognition of the unique experiences and vulnerabilities of LGBTIQ+ consumers accessing essential services and banks.

The InterInsurance Working Group, a network of representatives from various insurance firms collaborating to improve inclusion in the sector, and several insurers have since sponsored the Lobby to survey the community's experience interacting with the industry. The Lobby thanks these insurers for their continued engagement with the community on these important issues. The report has been compiled by an independent social researcher, with input from LGBTIQ+ community organisations.

The research seeks to understand LGBTIQ+ customer experiences with insurance products and services, including health insurance; car, motor vehicle, recreational vehicle or caravan insurance; travel insurance; home building, contents, landlord or strata insurance; life, income protection or disability insurance; and business insurance. The also seeks to understand challenges faced by groups within the LGBTIQ+ community; aspects of the customer journey that may be problematic for LGBTIQ+ customers, e.g., underwriting, claims; and potential barriers to LGBTIQ+ customers accessing or utilising insurance.

The goal of this research is to provide actionable recommendations for the insurance industry to improve processes, products, communication, etc., and to guide efforts by industry to improve LGBTIQ+ inclusivity of insurance products.

The research was conducted through an online survey of LGBTIQ+ Australians. Inclusion required that the participant identifies as lesbian, gay, bisexual, asexual or as trans or gender diverse or has an intersex variation of sex characteristics, and lives in Australia. The survey was shared through social media accounts from the Pride Lobby and other LGBTIQ+ community organisations. The survey aimed to achieve maximum diversity and aimed for a spread of participants according to sexual orientation, gender identity and sex characteristics to allow the research to identify themes that vary by the participants' identity.

In terms of gender identity: 43% were male; 32% were female; and 22% were non-binary or gender diverse. In total, 42% of respondents were trans or gender diverse; compared to 56% cisgender.

26% of respondents were born with a variation of sex characteristics.

In terms of sexual orientation: 32% were gay; 28% were lesbian; 19% were bisexual/pansexual; 11% were queer; and 18.5% were asexual. Some used multiple labels to describe their sexual orientation.

The research has a national scope (not just Victoria). There was a strong demographic mix of respondents across states and territories, though it was somewhat skewed to the two most populated states. 42% of respondents lived in New South Wales and 27% in Victoria. The remainder were in Queensland (11%), Western Australia (8%), South Australia (3%), the Australian Capital Territory (3%), the Northern Territory (3%) and Tasmania (2%).

In relation to age: 5% of respondents were aged 18-24; 47% were 25-34; 28% were 35-44; 11% were 45-54; 6% were 55-64; and 1% were 65 or over.

Survey data was analysed and compiled into this public report with recommendations to address the issues identified. Responses have been rounded to the nearest percentage.

Legal issues

Equal opportunity laws restrict discrimination by insurance providers.

Under the *Sex Discrimination Act 1984* and equivalent federal, state and territory laws, insurers cannot deny insurance to customers based on gender identity, sexual orientation, or sex characteristics. However, legislation permits discrimination on the grounds of sex⁷ (or disability,⁸ such as HIV) when drafting the terms of that person's policy, insofar as the discrimination is based upon "actuarial or statistical data" on which it is reasonable to rely,⁹ and is reasonable having regard to the matter of the data.¹⁰

According to available guidance, the following matters are relevant to determining whether it is reasonable to rely on "actuarial or statistical data":

- data must be up to date and any limitations in data should be explained;¹¹
- data must state that the condition of the proposed insured is an unacceptable risk and should preferably be from an Australian source;¹²
- underwriting manuals with detailed information regarding the nature and degree of extra risk associated with insuring people with a particular disability or medical condition may also be relied upon, insofar as the manuals themselves are based on relevant actuarial or statistical data or medical opinion, and up to date;¹³ and
- any other relevant data that is "available or could reasonably be obtained" must also be considered.¹⁴

The question of whether discrimination is *reasonable* requires the insurer to consider other matters additional to the information conveyed by the "actuarial or statistical data" itself. The following considerations should be considered: practical and business considerations; whether less discriminatory options were available; the individual's particular circumstances; all other relevant factors of the case; and the objects of anti-discrimination law, especially the object of eliminating discrimination as far as possible.¹⁵

The Australian Human Rights Commission has provided guidelines on when discrimination is *not reasonable*:¹⁶

⁷ *Sex Discrimination Act 1984* s 41(1).

⁸ *Disability Discrimination Act 1992* s 46(2).

⁹ *Sex Discrimination Act 1984* s 41(1)(c).

¹⁰ *Sex Discrimination Act 1984* s 41(1)(d).

¹¹ *Xiros v Fortis Life Assurance* [2001] FMCA 15.

¹² *Kors v AMP Society* [1998] QADT 23.

¹³ Australian Human Rights Commission, *Guidelines for Providers of Insurance and Superannuation under the Disability Discrimination Act 1992 (Cth)* (2016) 9-10.

¹⁴ Australian Human Rights Commission, *Guidelines for Providers of Insurance and Superannuation under the Disability Discrimination Act 1992 (Cth)* (2016) 7.

¹⁵ Australian Human Rights Commission, *Guidelines for Providers of Insurance and Superannuation under the Disability Discrimination Act 1992 (Cth)* (2016) 14-15.

¹⁶ Australian Human Rights Commission, *Guidelines for Providers of Insurance and Superannuation under the Disability Discrimination Act 1992 (Cth)* (2016) 16-17.

- refusing to insure a person simply because the provider does not have any data if it would otherwise be reasonable to provide insurance having regard to other relevant factors;
- refusing to insure a person merely because of historical practice;
- basing decisions about insurance or superannuation on inaccurate assumptions or stereotypes;
- imputing a disability or medical condition from information disclosed or not disclosed by a person, including the fact that a person has consulted with a medical practitioner or failed to disclose to an insurer that they consulted with a medical practitioner.

General sentiments

We asked our respondents about their perceptions and experiences of insurance. Over two thirds of respondents have experienced excellent service, but nearly half reported discrimination or exclusion when applying for insurance. Two in five have had difficulty updating information, and three quarters of trans and gender diverse respondents have had difficulty self-declaring their gender. Just over two in five respondents have been reluctant to make an insurance claim.

Perceptions of insurance

We asked our respondents about their perceptions of insurance companies. 60% of respondents agree that insurance companies are generally helpful and supportive. Only 3% strongly disagree. When asked if insurance companies treat LGBTIQ+ people fairly, around one third (36%) of all respondents agree, and around one fifth (20%) disagree. 52% of respondents believe insurance companies are trying to understand and respect LGBTIQ+ people. In short, most respondents believe that insurance companies are generally helpful and supportive and are trying to be understanding and respectful towards LGBTIQ+ people. However, opinion was more divided on whether insurance companies are fair to LGBTIQ+ people.

Experiences of insurance

Almost all respondents (94%) have had contact with insurance companies. 52% of respondents agree that insurance companies generally treat them fairly, though there was a large neutral response at 33%. Out of 5, the average rating given by respondents on their contact with insurance companies is 3.6. The most common response was 4 (46%).

Over two thirds (68%) of respondents have experienced excellent service and affirming customer experience with an insurance company. Some who had experienced affirming and excellent service said this was due to their gender or relationship being properly recognised. Others complained of staff making assumptions about their or their partner's gender. As some said:

They constantly assume my partner is of the opposite sex, and once had a call operator project their religious opinions about living in a same-sex household.

Insurance companies have always assumed my sexual orientation and used heteronormative language. Insurance companies have been unsure when I have asked questions specific to their products and myself and partner purchasing these products as a same-sex couple (for example, health insurance as a same-sex couple).

Every time I call my insurance company regarding my contents insurance, which I share with my same-sex partner, they misgender her. The first insurance card they sent her had her salutation wrong (they printed it as Mr), despite me explaining it multiple times. They still get it wrong. I do disclose my sexuality by default, but it sucks having to have the same conversation over and over again. And the person on the end is clearly so uncomfortable getting it wrong - they've clearly had no training in how to cope in that situation. A simple apology and move on would be preferable, or just not assuming in the first place.

To address this, some suggested that insurers should assign LGBTIQ+ staff to deal with LGBTIQ+ customers, “as this may build empathy and positive perception with the customer.” Others suggested that training may be the solution to address biases on the part of customer-facing staff.

Applying

Almost half of respondents (47%) have faced discrimination or exclusion when applying for an insurance product. This drops to 41% when asked if they had experienced discrimination or exclusion *by an insurance advisor or broker*. For our younger cohort (18 to 24 years old), 35% reported discrimination or exclusion when applying for an insurance product. For our older cohort (65 years old and over), none reported discrimination or exclusion, though some did report difficulty accessing life insurance.

The Lobby’s 2020 community survey, *A New Day*, showed that LGBTIQ+ people experienced discrimination, harassment or violence in public places (37%),¹⁷ when seeking medical treatment (28%),¹⁸ in educational settings (28%),¹⁹ and in relation to their employment (24%).²⁰ As such, discrimination in insurance is high compared to other industries, services or settings.

In terms of discrimination or exclusion, many respondents mentioned gendered assumptions made about them or their partner as well as intrusive questioning about their sex life (including the number of partners, the frequency of sex, whether sex was with or without condoms, and the like). Some found such questions “offensive” and others did not answer questions truthfully so as to avoid potential discrimination.

Some noted the need for staff to be welcoming of LGBTIQ+ customers. As one said:

I haven’t opted for an insurance company when I feel discomfort from the staff about LGBTQI people irrespective of the fact that the company may have inclusive policies.

31% of respondents to our survey were current or former sex workers, and many of them reported difficulty applying for insurance. This is discussed further below.

Updating details

40% of respondents have had difficulty updating information with insurers. One respondent said they were overly questioned when seeking a change:

As a child my parents had registered me as a 'Miss' and I wanted to change it to 'Ms' and the employee questioned me about it and my marital status instead of just doing as I asked without comment.

Some said that when they requested changes, they were laughed at or called ugly names. Others noted that, even when their information was updated, they were still misgendered in interactions with service representatives. On the other hand, some respondents reported that changes were made without a fuss. It is important that when changes are made, they flow through to all systems, including in correspondence and online profiles.

Most concerningly, over 3 in 4 trans and gender diverse respondents (76%) have had difficulty self-declaring their gender with insurers. This issue is discussed further below.

¹⁷ Victorian Pride Lobby, *A New Day: A Report on the Victorian Pride Lobby’s 2020 Community Survey* (2021) 7.

¹⁸ Victorian Pride Lobby, *A New Day: A Report on the Victorian Pride Lobby’s 2020 Community Survey* (2021) 5.

¹⁹ Victorian Pride Lobby, *A New Day: A Report on the Victorian Pride Lobby’s 2020 Community Survey* (2021) 8.

²⁰ Victorian Pride Lobby, *A New Day: A Report on the Victorian Pride Lobby’s 2020 Community Survey* (2021) 6.

Claiming

41% of respondents have been reluctant to make an insurance claim. Some said this was due to fear and stigma, particularly for people living with HIV, as discussed further below. For those that did make a claim, 37% experienced intrusive questioning during the claim process. Many described the questioning as awkward, discomforting or embarrassing.

One respondent reported a positive experience:

A human approach to the claiming process was very welcomed and a straight-forwardness in language and what was required to get things done. Sexuality should not be a factor and it should be about the policy and claim conditions against the incident being claimed - for me this has been a positive experience and I believe that insurers have made an effort to address this.

38% of respondents have been refused an insurance claim. This rose to 70% for trans and gender diverse respondents; 76% for respondents living with HIV; and 91% for respondents born with a variation of sex characteristics. This is markedly higher than the industry average for life insurance claims of between 4%-16%.²¹

Some respondents reported difficulties dealing with their insurer during the claims process and felt that the rejection of their claim was discriminatory. Others felt there was a lack of explanation when their claim was refused.

Complaining

35% of respondents have had to make a complaint about their insurance company related to being LGBTIQ+. Complaints for most insurance products were between 35%-38%; however, 64% of respondents who have or have had business insurance made a complaint about insurance companies related to being LGBTIQ+. Sometimes these were related to experiences with staff. One respondent told us of their experience:

On site assessor was uncomfortable that we were same sex couple - was professional but clearly not expecting it and not sure how to conduct himself smoothly... The situation became rushed so he could leave. This was reported at the time back to the insurer.

Others had quite the opposite experience:

We had a bunch of tradies come out to replace our ceiling after the 2020 hailstorm that took out our roof, and we had anticipated awkwardness or subtle homophobia due to previous experiences with tradespeople on the property (not related to insurance) - but they were all surprisingly pleasant, laid back, asked about our marriage etc. One of the tradies had an eldest daughter who was LGBTQ+ and I think that made the difference. I'll take "enthusiastic dad ally" over creepy homophobia any day of the week.

Actions

When asked how insurers can improve the inclusivity of their products, respondents ranked the following actions on a scale of 5:

- Training on LGBTIQ+ inclusivity for service or sales staff (3.81 out of 5)
- Ceasing collection of information on gender, salutation, or relationship status, unless necessary to the insurance product (3.37 out of 5)

²¹ Justin Malbon, 'Forcing insurers to reveal rejected claims a win for insurers', *The Conversation* (14 October 2016).

- Simplifying processes for customers seeking to update their names, salutations, and gender (3.06 out of 5)
- Including non-binary options for gender (2.87 out of 5)
- Including depictions of LGBTIQ+ people in communications and marketing materials (1.97 out of 5)

The General Insurance Code of Practice requires that insurers provide training to employees to help them understand if customers may be vulnerable; how best to support vulnerable customers; how to take account of the particular needs of vulnerable customers; and how to engage with vulnerable customers with sensitivity, dignity, respect and compassion, including arranging additional support for vulnerable customers.²² Ensuring service or sales staff receive training on LGBTIQ+ inclusivity was of most importance (3.81 out of 5 on the scale of importance).

Recommendation 1: That insurers provide LGBTIQ+ training to staff, particularly service or sales staff, to:

- help them understand if customers may be LGBTIQ+;**
- how best to support LGBTIQ+ customers;**
- how to take account of the needs of LGBTIQ+ customers; and**
- how to engage with LGBTIQ+ customers with sensitivity, dignity, respect and compassion, including identifying additional support for LGBTIQ+ customers.**

There is also a need for insurers to improve questions asked in forms to ensure LGBTIQ+ inclusion. As a rule, insurers should not collect information on gender or relationship status unless it is necessary for the insurance product. If this information is collected, it should include non-binary gender options and simple processes should be in place for updating information related to gender or relationship status. This is discussed further below.

Respondents said that ensuring communications and marketing materials include depictions of LGBTIQ+ people was the least important way insurers can improve the inclusivity of their products (1.97). Nevertheless, insurers can signal inclusion by including images of same-gender couples, as well as trans, gender diverse and intersex people, in their advertising campaigns.

Recommendation 2: That insurers review their communications and marketing material to ensure that it includes depictions of LGBTIQ+ people and inclusive language.

There is also a broader need for the insurers to undertake or support initiatives to address misconceptions about access to insurance for LGBTIQ+ people and other diverse groups, including informing LGBTIQ+ peer organisations about their stance on insurance access.

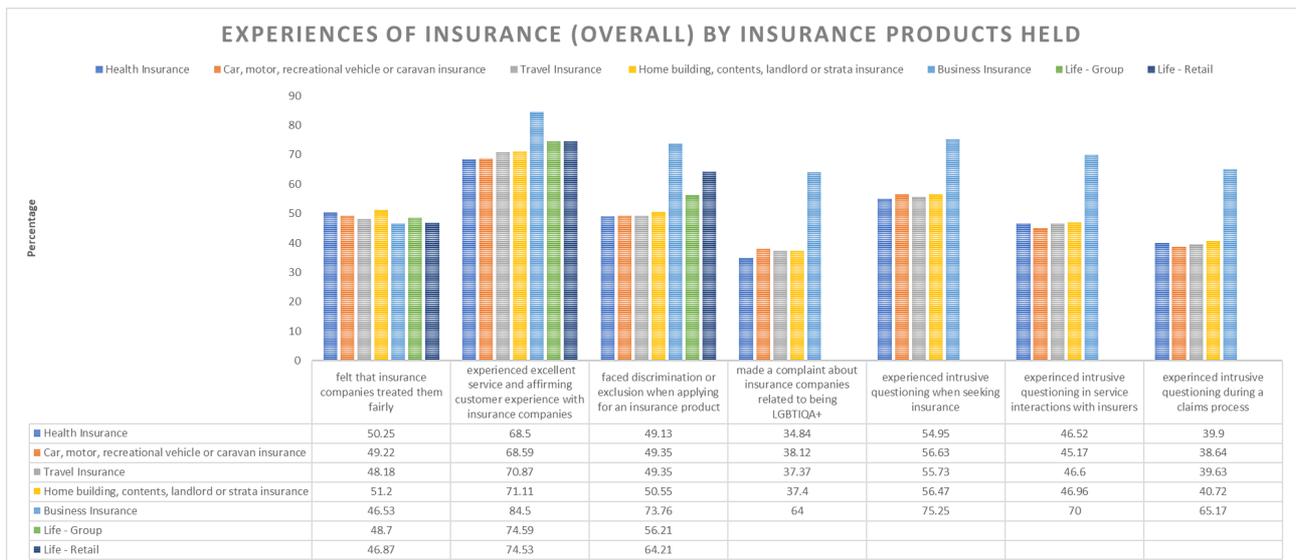
Recommendation 3: That insurers provide publicly available information as to whether and how LGBTIQ+ people are covered by their insurance policies, consistent with the recommendations in this report.

Insurance products

In this section, we provide information on experiences of insurance according to certain insurance products: health insurance; car, motor, recreational vehicle, or caravan insurance; home building, contents, landlord or strata insurance; life insurance (group and retail); and business insurance.

The below chart summarises the experiences of six key insurance products: health insurance; car, motor, recreational vehicle or caravan insurance; travel insurance; home building, contents, landlord or strata insurance; business insurance; and life insurance (group and retail).

²² Insurance Council of Australia, *General Insurance Code of Practice* (2021) 31.



Health insurance

Health insurance covers medical expenses. The *Private Lives 3* report indicated that 56% of LGBTIQ people have private health insurance, a similar amount to the general population (57%).²³ Amongst our respondents, 82% have or have had health insurance.

Respondents who had or have had health insurance rated their contact with insurance companies, on average, 3.58 out of 5. Furthermore:

- 50% felt that insurance companies treated them fairly
- 68.5% experienced excellent service and affirming customer experience with insurance companies
- 49% reported discrimination or exclusion when applying for an insurance product

This is particularly concerning that health insurers cannot discriminate or exclude customers based on sexual orientation, gender identity, sex characteristics or other attributes such as health status or age.²⁴ This data suggests real or perceived discrimination or exclusion that could be for any reason, including poor treatment by staff, exclusionary processes, or misunderstandings. Insurers should address this through adopting the recommendations outlined in this report.

Health insurance is also particularly important for trans and gender diverse people seeking to undergo gender affirmation procedures, as discussed further below. However, as discussed further below, health insurers' records must match what is on file with Medicare, including the customer's sex or gender, which can cause a poor customer experience for trans and gender diverse consumers. Furthermore, some respondents reported that assumptions were made about their or their partner's gender. As one respondent explained:

They have based mine and my partners combined insurance off that of two women despite the fact that my partner identifies as non-binary. They have been unsure, or employees have been unsure, of how products and services will apply to us as a couple taking out combined insurance but both requiring access to gynaecology/obstetric/IVF products and services.

²³ Adam Hill et al, *Private Lives 3: The Health and Wellbeing of LGBTQ People in Australia* (2020) 54.

²⁴ Private Healthcare Australia, 'Private health insurance community rating system' <<https://www.privatehealthcareaustralia.org.au/consumers/private-health-insurance-community-rating-system/>>.

Some suggested training was needed to improve health insurers' interactions with LGBTIQ+ customers:

Even a general inquiry seems to be stilted and weird when they bring up your details and see two women on a couple's policy. Tripping over sentences, awkward pauses between words when referencing "spouse/partner" or just outright misgendering of my wife. It's really not that hard. They need an LGBTQ+ 101 or something. It's really not that hard to have a conversation.

The needs of people experiencing mental health issues are discussed further below.

Car, motor, recreational vehicle, or caravan insurance

Amongst our respondents, 79% have or have had car, motor, recreational vehicle, or travel insurance. Respondents who had or have had car, motor, recreational vehicle, or caravan insurance rated their contact with insurance companies, on average, 3.6 out of 5. Furthermore:

- 49% felt that insurance companies treated them fairly
- 69% experienced excellent service and affirming customer experience with insurance companies
- 49% reported discrimination or exclusion when applying for an insurance product

Although sexual orientation and gender identity is largely irrelevant to car insurance, respondents reported assumptions being made that they or their partner were a particular gender and were therefore referred to in a way that was inaccurate. As one respondent surmised:

It has been clear when dealing with these insurance companies over the phone that their employees are not always well trained in communicating appropriately and respectfully with sexuality and gender diverse people - constant assumptions, misgendering etc.

Another respondent had a particularly positive experience:

Was delighted to have a trans woman mechanic come... to our regional town.

Travel insurance

Travel insurance covers losses while travelling, either domestically or internationally. Amongst our respondents, 78% have or have had travel insurance. Respondents who had or have had travel insurance rated their contact with insurance companies, on average, 3.56 out of 5. Furthermore:

- 48% felt that insurance companies treated them fairly
- 71% experienced excellent service and affirming customer experience with insurance companies
- 49% reported discrimination or exclusion when applying for an insurance product

Many respondents took out travel insurance online with limited interaction with customer service representatives, and some reported that there was a lack of non-binary options for gender and salutations, despite non-binary gender markers being available on passports. Some trans and gender diverse respondents reported difficulty obtaining travel insurance where their gender identity did not align with the gender recorded on their passport. Other respondents reported assumptions that they or their partner were a particular gender. Some noted that questions about families were not inclusive of rainbow families. People living with HIV also reported difficulties with accessing travel insurance, discussed further below.

Home building, contents, landlord or strata insurance

The *Private Lives 3* report indicated that 44% of LGBTIQ people live in a private rental property and 29% in a home they own. This compares to 32% of the general Australian population who live in a private rental property and 66% in a home they own.²⁵ This can lead to higher levels of insecure housing. One respondent told us:

I became housing insecure and found that while I'd had contents insurance for my stuff as a private renter in a house, I couldn't get insurance for my stuff when living in a caravan. Which sucks.

Amongst our respondents, 73% have or have had home building, contents, landlord or strata insurance. Respondents who had or have had home building, contents, landlord or strata insurance rated their contact with insurance companies, on average, 3.65 out of 5. Furthermore:

- 52% felt that insurance companies treated them fairly
- 71% experienced excellent service and affirming customer experience with insurance companies
- 51% reported discrimination or exclusion when applying for an insurance product

Though sexual orientation or gender identity is largely irrelevant to home insurance, many respondents reported having their partner misgendered based on an assumption that they were in a different-gender relationship. This can often occur when a couple moves in together and updates their insurance policy. As one respondent put it, misgendering is “awkward for all involved and ultimately exhausting.” Strangely, one respondent reported being asked about their HIV status in a mortgage application. Many suggested that this could be ameliorated by better staff training. One respondent told us of their experience with a claims assessor:

Getting the insurance was okay, but processing a claim was interesting. The insurance company forced some random assessors and builders [to] visit our home who we had no context or background on. When they arrived, they suddenly got very awkward, and looking at us strangely when they realised [that] they were in a same-sex house - made us slightly nervous and concerned for safety in our own home.

This underscores the need for training of staff, as recommended above.

Life insurance

We asked our respondents about their experiences when it came to life, trauma, total and permanent disability and income protection insurance - a category of insurance products that covers death, serious illness or injury, and permanent disability. Life insurance products purchased through an advisor or online are typically underwritten (that is, the applicant must answer questions about their medical history and, on some occasions, undergo medical tests); cover provided through superannuation (or an employer) does not require underwriting below certain thresholds. This form of insurance can be particularly important for rainbow families having children through surrogacy, as discussed further below, as well as other population groups within the LGBTIQ+ community.

Amongst our respondents, 62% have or have had life or disability insurance through their superannuation and 55% have or have had stand-alone life, income protection or disability insurance. Respondents who had or have had superannuation-linked life or disability insurance rated their contact with insurance companies,

²⁵ Adam Hill et al, *Private Lives 3: The Health and Wellbeing of LGBTQ People in Australia* (2020) 33.

on average, 3.64 out of 5. Respondents who had or have had stand-alone life or disability insurance rated their contact with insurance companies, on average, 3.73 out of 5. Furthermore:

- 49% of respondents with superannuation-linked life or disability insurance felt that insurance companies treated them fairly (47% for people with stand-alone insurance)
- 75% of respondents experienced excellent service and affirming customer experience with insurance companies
- 56% of respondents with superannuation-linked life or disability insurance reported discrimination or exclusion when applying for an insurance product (64% for people with stand-alone insurance)

In terms of discrimination or exclusion, there were reports of people living with HIV being denied life insurance, which is also discussed further below. Others reported discrimination related to other health issues, including weight, mental health, and other sexually transmitted infections. Some respondents reported intrusive questioning about sexual history, including history of sexual health checks and blood-borne viruses, which respondents described as “offensive and outdated.” Some noted that these questions were particularly geared to gay and bisexual male customers. One reported having to “get a blood test / share medical records with the insurance company for HIV just because I am gay.” This was not uncommon.

As mentioned in the opening, there is no explicit mention of vulnerability in the Life Insurance Code of Practice, which may mean that life insurers are less cognisant of the vulnerabilities that LGBTIQ+ people and other marginalised population groups face. Whilst the Code includes older people, people with a disability, people from non-English speaking backgrounds, Indigenous people, and people living in remote and regional communities amongst “groups that may have unique needs”,²⁶ there is no consideration of LGBTIQ+ people. We understand that the Financial Services Council is updating the Code to provide more information on customers requiring additional support, and this is an ideal opportunity to consider what additional support LGBTIQ+ customers may need, in line with the recommendations in this report.

Recommendation 4: That the Financial Services Council review and update its *Life Insurance Code of Practice* to include a section on vulnerable customers, including LGBTIQ+ people.

Business insurance

Amongst our respondents, 41% have or have had business insurance. Respondents who had or have had business insurance rated their contact with insurance companies, on average, 3.93 out of 5. Furthermore:

- 47% felt that insurance companies treated them fairly
- 84.5% experienced excellent service and affirming customer experience with insurance companies
- 74% reported discrimination or exclusion when applying for an insurance product

Whilst complaints for other insurance products were between 38%-38%, 64% of respondents who have or have had business insurance made a complaint about insurance companies related to being LGBTIQ+. Furthermore:

- 75% experienced intrusive questioning when seeking insurance, 70% in service interactions with insurers, and 65% during a claim process
- 64.5% had difficulty updating partner or family information with insurers
- 69.5% faced poor treatment or discrimination by third-party insurance service providers
- 70% had been refused insurance claims and had been reluctant to make insurance claims due to fear of discrimination or exclusion

²⁶ Financial Services Council, *Life Insurance Code of Practice* (2019) 14.

Respondents commonly reported obtaining business insurance through a broker, yet 67% faced discrimination or exclusion by an insurance advisor or broker. Population groups

In this section, we provide information on experiences of insurance according to certain population groups: people living with HIV; people with a variation of sex characteristics; trans and gender diverse people; and sex workers. We also discuss the experiences of rainbow families and people experiencing mental health issues.

The below chart summarises the experiences of four key population groups: people living with HIV; people with a variation of sex characteristics; trans and gender diverse people; and sex workers.



People living with HIV

27% of respondents (134) were living with HIV. In Australia, there are around 28,000 people living with HIV (“PLHIV”) and around 1000 new cases each year.²⁷

The *HIV Futures 9* report indicated that 39% of PLHIV have private health insurance, which is lower than the general population (57%).²⁸ Amongst our respondents, 90% had private health insurance. Notably, the National Association of People with HIV Australia reports that “you do not have to disclose your HIV status when you sign up” for health insurance.²⁹

Respondents living with HIV rated their contact with insurance companies, on average, 3.72 out of 5. Furthermore:

- 22% felt that insurance companies treated them fairly
- 83% experienced excellent service and affirming customer experience with insurance companies
- 88% faced discrimination or exclusion when applying for an insurance product

An informal poll conducted by The Institute of Many showed that 21% of people living with HIV had been knocked back by insurers specifically due to their HIV status. As one person surveyed said:

²⁷ Kirby Institute, *HIV, Viral Hepatitis and Sexually Transmissible Infections in Australia: Annual Surveillance Report 2018* (2018).

²⁸ Jennifer Power et al, *HIV Futures 9: Quality of Life Among People Living with HIV in Australia* (2019) 22.

²⁹ National Association of People with HIV Australia, *Fact Sheet 10: Is It Worth Getting Health Insurance When You Have HIV?* (nd) 2.

I work for a life insurance company, and it probably wouldn't surprise you to know there is a lot of ignorance when it comes to the profession and HIV.

The *HIV Futures 9* report found that, amongst PLHIV, “the most common experience of discrimination was in insurance.”³⁰ 25% of people surveyed there had experienced insurance discrimination due to their HIV status in the last twelve months.³¹

As mentioned above, the *Disability Discrimination Act 1992* provides protections for people living with HIV.³² However, our survey results indicate that PLHIV continue to face poor treatment by insurers:

- 88% experienced intrusive questioning when seeking insurance, 80% in service interactions with insurers, and 77% during a claim process
- 80% faced poor treatment or discrimination by third-party insurance service providers
- 76% had been refused insurance claims
- 84% had been reluctant to make insurance claims due to fear of discrimination or exclusion

Some of the poor treatment can feel dehumanising. As one respondent told us:

Being HIV positive I was made to feel like a leper.

Cost is also a factor. The *HIV Futures 9* report indicated that 33% of PLHIV with private health insurance were likely to give up health insurance in the next five years due to the expense.³³ Some respondents told us that insurance was unaffordable for PLHIV, and others reported being charged more by an insurance advisor or broker because of their HIV status. Others reported being turned away by insurance advisors and brokers.

Disclosure

Unlike other insurance types, including health insurance, most life insurers will ask if a customer is living with or is at risk of contracting HIV. This question is generally asked of all customers, but not all life insurers ask the question. The Financial Services Council Guidance Note influences how life insurers ask questions about HIV.³⁴ These include questions in respect of assumed risks, including:

- anal sexual activity without a condom outside a monogamous relationship for a period of time;
- sex with or as a sex worker;
- sex (without a condom) with a person who uses recreational injected drugs; and
- travel to high-risk countries or sexual relations with persons who have recently come from high-risk countries.³⁵

These questions can be very confronting and off-putting as they deal with personal information, including about sexual partners and practices. As those surveyed by The Institute of Many said:

The questions you have to fill in are very problematic and need to change. They're very triggering.

³⁰ Jennifer Power et al, *HIV Futures 9: Quality of Life Among People Living with HIV in Australia* (2019) 34.

³¹ Jennifer Power et al, *HIV Futures 9: Quality of Life Among People Living with HIV in Australia* (2019) 35.

³² *Disability Discrimination Act 1992*.

³³ Jennifer Power et al, *HIV Futures 9: Quality of Life Among People Living with HIV in Australia* (2019) 22.

³⁴ Financial Services Council, *Guidance Note No. 32: HIV/AIDS Underwriting Guidelines* (2013).

³⁵ Financial Services Council, *Guidance Note No. 32: HIV/AIDS Underwriting Guidelines* (2013) 6.

*The questionnaires from [an insurer] for income protection were degrading... I didn't go with them and felt like lodging a complaint. I just think they didn't want business from a Darlinghurst f*g.*

Some of our respondents questioned the relevance of questions of this kind, saying:

The sexuality and sexual practices-related questions in the application process were offensive and outdated. They were offensively framed and, in my opinion, were incapable of better informing the insurer about the risks I represented. For example, the question was simply whether I participated in anal sex - not also asking whether it was protected or unprotected, whether I was taking 'PrEP' or taking other preventative measures.

The way that questions are framed can be seen to exclude not only PLHIV but men who have sex with men and people who use drugs, and this can lead to some avoiding or not properly answering questions such as this. As one respondent said:

At the time all options excluded MSM, so I had to lie on application, later excluded if ever tested for HIV or [an] STI, so again needed to lie.

Other respondents commented that they “gave up” in the face of “repeated offensive questions.” Just 6% of respondents living with HIV feel comfortable disclosing their HIV status or other factors to insurance companies. Some will simply not disclose this information, others were also uncertain whether they needed to inform their insurer if they contracted HIV. This is exacerbated if it is not clear to the customer why the insurer is asking this question, and what the actual risk associated with HIV and certain sexual practices is. To address this, the Institute of Many recommends that applicant questionnaires be reviewed for sensitivity. Some life insurers have adopted less intrusive questioning; this should be taken up by all insurers.

Recommendation 5: That the Financial Services Council review and update its *Guidance Note No. 32: HIV/AIDS Underwriting Guidelines* in consultation with HIV peer organisations.

Recommendation 6: That insurers review applicant questionnaires to ensure that questions about HIV are asked in a sensitive manner.

Coverage

Some respondents who disclosed their HIV status in insurance applications felt that it was “not treated as a health condition... only a financial risk.” This underscores the need for transparency and clear communication from insurers towards PLHIV. Each insurance company has its own guidelines regarding how they underwrite applicants living with HIV. These guidelines will determine whether the insurer will accept applicants living with HIV and on what terms, including specific exclusions and higher premiums or loadings. PLHIV will often pay more for life insurance and thus may be more likely to give it up due to cost and may be declined life insurance in some circumstances. This differs across insurers, and these guidelines are generally not shared due to commercial sensitivity.

If a customer has a pre-existing condition, under Australia’s community rating system for private health insurance, the most that insurers can do is implement a twelve-month wait period; two months for new conditions after purchase or upgrade. Then, after that, the customer is covered for as long as they hold the applicable level of coverage.

Most insurers have fully removed general exclusion clauses for HIV from their policies, meaning that people living with HIV can apply for insurance. However, some PLHIV still reported rejection based on HIV status, particularly from life insurers, including from insurers designed to support people living with complex health

conditions. One respondent said it was “near impossible” to obtain life insurance, another said they were “prohibited” from doing so. Another said:

Now I only have [insurance] through super because as a positive guy I can't get standalone insurance of this type.

A recent poll conducted by The Institute of Many showed that 55.5% of people living with HIV always assumed that they would be excluded from taking out certain insurance policies. As one person surveyed said:

I gave up with insurance on day one after getting diagnosed because most of the policies show clearly that PLHIV are ineligible.

Sometimes this can be based on ignorance or misunderstanding on the part of insurers. As one respondent told us:

I have found a few friends who have been told no or the customer service officer unsure about the rules or how to handle someone living with HIV.

Some respondents reported that the wording in product disclosure statements was vague, and therefore it was uncertain whether they would be covered. Insurers and insurance providers clearly have a role to play in educating the community when it comes to insurance coverage for PLHIV, especially as a lack of information can deter PLHIV from obtaining insurance. This can be addressed by provision of clear information, as another person said:

For a lot of insurers, they likely just need to tweak and update their online settings to reflect the current happy reality many of us enjoy, that is living a healthy and active life with HIV.

It is also important that any information not frame HIV purely as a risk but rather as a health condition like any other, especially given recent advances in medical treatment. The Institute of Many recommends that information on insurance coverage of PLHIV should be communicated to the community, with consultation with HIV peer organisations prior to ensure appropriate messaging. Indeed, respondents reported that they would rely on community networks and organisations to find which insurance companies will cover them.

Recommendation 7: That insurers provide publicly available information as to whether people living with HIV are covered by their insurance policies, developed in consultation with HIV peer organisations to ensure appropriate messaging.

Generally, upon application, a person living with HIV will be asked questions about and have to demonstrate:

- adherence to antiretroviral treatment;
- low viral load and CD4 count; and
- no other health problems or comorbidities (including mental health).

Some found the necessary medical appointments confronting and unnecessary:

It's very inconsistent between companies for HIV+ people. I keep trying different companies until I find one that doesn't require me to have a medical appointment. I usually find one that accepts my application with minimal HIV specific information (as they should). But it takes 3-4 goes to find one. That is, simply asking “viral load undetectable and on treatment” sufficient for a green light.

All customers will be asked if they are taking medication, including preventative medication. As such, customers living with or at risk of contracting HIV will need to disclose whether they are taking treatment as

prevention methods, such as pre-exposure prophylaxis (or “PrEP”). Some insurers will directly ask the customer if they are taking PrEP; others will not. Underwriting guidelines on PrEP also appear to vary amongst insurers; concerningly, some respondents reported that they were treated as *higher* risk for taking PrEP, even though it *reduces* the risk of contracting HIV.

Recommendation 8: That, in reviewing and updating its *Guidance Note No. 32: HIV/AIDS Underwriting Guidelines*, the Financial Services Council provide guidance to insurers on PrEP.

Even for people living with HIV who are insured, there is uncertainty over how their HIV status - and stigma associated with that - will impact any claims. As one person surveyed by The Institute of Many said:

I have income insurance etc through my [super fund/employer], but not sure if they know about my HIV status and would honour any claims.

The insurance claims assessment is based on actuarial data from reinsurers. Reinsurers will generally only revisit actuarial data every decade or when new treatments arise. It is difficult to tell whether insurance companies have updated their policies around HIV since the advent of new treatment and prevention methods such as PrEP. Case law suggests that data should be up to date if insurers are to rely on it.³⁶ The Institute of Many recommends that underwriting policies, particularly in relation to life and income insurance, are informed by HIV science. The National Association of People with HIV Australia recommends that “when considering people living with HIV (PLHIV) for life insurance, ensure you have the most up to date information. HIV is a rapidly changing health field with treatments offering PLHIV life expectancy equal to that of the general population”, particularly for those who are taking prescribed HIV treatment.³⁷ Prejudicial treatment can be based on outdated assumptions, as one respondent put it:

Assumptions that people living with HIV are unwell and a liability even if you are healthy and have no other medical problems.

Recommendation 9: That insurers review their actuarial and statistical data in line with current medical advice to enable any exclusions or increased pricing based on HIV to be as minimal as possible.

Travel

Interestingly, the percentage of respondents who have or have had travel insurance was higher amongst PLHIV (90%). Travel insurance applicants must disclose their HIV status and should not be excluded from getting insurance on this basis. However, PLHIV reported exclusion. As some respondents told us:

HIV remains a huge exclusion mechanism for many travel insurance products.

As PLHIV the medical aspect of travel insurance is a nightmare. Some companies flat out won't cover you; others load the premium or make the exclusions daunting; and very few accept HIV as a minor chronic disease and either don't charge extra or only a small amount.

Travel insurance as a HIV+ person has been problematic in the past. I feel that the insurance industry hasn't kept up adequately with pricing risk for HIV+ people who are managing the disease with modern medications/treatments.

Respondents reported having to pay additional premiums for travel insurance. As one person told a recent survey by The Institute of Many:

³⁶ *Xiros v Fortis Life Assurance* [2001] FMCA 15.

³⁷ National Association of People with HIV Australia, *Fact Sheet 9: Can People with HIV Get Life Insurance?* (nd) 2.

When it comes to travelling overseas... I had to pay a steep premium which I think is quite unfair given my relatively good health these days.

Some respondents reported having to submit “endless... medical reports” to obtain insurance. This can include assessment forms filled out by doctors. Others reported uncertainty over coverage. Some did not disclose their HIV status due to fear of exclusion or higher costs as a result.

Travel insurers need to be clear on coverage for PLHIV. Moreover, the Institute of Many recommends that travel insurers remove premium loadings for PLHIV. This is particularly so if a person’s HIV condition is being managed through treatment.

Recommendation 10: That insurers review, with a view to removing, exclusions or premium loadings for people living with HIV, particularly in situations where the HIV is being managed through treatment.

People with a variation of sex characteristics

26% of respondents (127) were born with a variation of sex characteristics. The approximation of intersex variations in the broader population is 1.7%.³⁸

Respondents who were born with a variation of sex characteristics (sometimes called “intersex”) rated their contact with insurance companies, on average, 3.86 out of 5. Furthermore:

- 27% felt that insurance companies treated them fairly
- 88% experienced excellent service and affirming customer experience with insurance companies
- 93% faced discrimination or exclusion when applying for an insurance product

This is despite protections under the *Sex Discrimination Act 1984* against discrimination based on intersex status.³⁹ Furthermore:

- 93% experienced intrusive questioning when seeking insurance, 91% in service interactions with insurers, and 91% during a claim process
- 87% had difficulty updating partner or family information with insurers
- 94% faced poor treatment or discrimination by third-party insurance service providers
- 91% had been refused insurance claims
- 90% had been reluctant to make insurance claims due to fear of discrimination or exclusion

These statistics are particularly high compared to equivalent statistics for other population groups.

Recommendation 11: That insurers provide publicly available information as to whether people with a variation of sex characteristics are covered by their insurance policies, developed in consultation with intersex peer organisations to ensure appropriate messaging.

Disclosure

Importantly, 87% of respondents born with a variation of sex characteristics would generally be comfortable disclosing their sex characteristics to insurance companies if necessary. However, most insurers only have binary options for sex or gender, which may exclude some people with variations of sex characteristics who

³⁸ Intersex Human Rights Australia, ‘Intersex population figures’ (2013).

³⁹ *Sex Discrimination Act 1984* s 5C.

identify outside the sex or gender binary. Intersex Human Rights Australia has developed guidance on forms and data collection to assist.⁴⁰

People with an intersex variation should not have to be a 'constant educator' on these issues, and insurers need to be proactive on intersex inclusion, in a way that respects the dignity and privacy of people with an intersex variation. Members of Intersex Human Rights Australia have reported negative experiences in accessing insurance services. As one described:

*I was laughed at by staff at a health insurer for the nature of a necessary medical examination.*⁴¹

Other respondents have shared concerns about security of information shared with insurers and appropriate protection of personal information. As the Office of the Victorian Information Commissioner notes, for the LGBTIQ+ community, "breaches of privacy can have significant consequences, including increased risk of discrimination."⁴²

Recommendation 12: That insurers review applicant questionnaires to ensure that questions about sex or gender are:

- (a) only asked where necessary;**
- (b) consistent with Intersex Human Rights Australia's guidance on forms and data collection; and**
- (c) accompanied by appropriate privacy protections.**

Genetic discrimination

The Darlington Statement, a community consensus statement by intersex organisations and advocates, calls for "an end to genetic discrimination, including in insurance."⁴³ Genetic discrimination occurs when insurance companies charge higher premiums due to genetic conditions. Life insurers are prohibited from conducting genetic tests but may use information on genetic conditions when assessing coverage.⁴⁴ This is particularly so in the case of genetic traits that predispose a person to cancer.⁴⁵ Some intersex variations are associated with high rates of gonadal cancer and may therefore be subject to higher premiums. Some people with an intersex variation have reported to Intersex Human Rights Australia unduly high insurance premiums for life insurance cover even following surgery.⁴⁶ Some respondents to our survey argued that pricing should be equal and not discriminate due to sex characteristics.

⁴⁰ Intersex Human Rights Australia, 'Forms and data collection' (2012) <<https://ihra.org.au/forms/>>.

⁴¹ Intersex Human Rights Australia, 'Intersex legislative issues 2012 - A brief summary' (2012).

⁴² Office of the Victorian Information Commissioner, *LGBTIQ+ Privacy Rights* (2021) 1.

⁴³ *Darlington Statement: Joint Consensus Statement from the Intersex Community Retreat in Darlington* (2017).

⁴⁴ Financial Services Council, *Standard No. 11: Moratorium on Genetic Tests in Life Insurance* (2019).

⁴⁵ Jane Tiller et al, 'Genetic discrimination by Australian insurance companies: A survey of customer experiences' (2020) 28 *European Journal of Human Genetics*. See also Yann Joly et al, 'The Genetic Discrimination Observatory: Confronting novel issues in genetic discrimination' (2021) 37(11) *Trends in Genetics*.

⁴⁶ Intersex Human Rights Australia, 'Submission on reform of the *Anti-Discrimination Act 1991*' (2022) 24.

The Androgen Insensitivity Syndrome Support Group (AISSG) Australia reports that “insurers often have little or no idea of the actual risks involved with insuring someone with a genetic condition.”⁴⁷ To address this, AISSG Australia recommends that “insurers should have to provide training for staff and assessors regarding the use of genetic information for any purpose.”⁴⁸ AISSG also recommends that insurers “should have to fully explain in writing reasons for not providing insurance on the basis of that genetic information. Any such explanation should include the statistical basis for arriving at a decision and all information relating to that risk assessment should be available upon request of the applicant.”⁴⁹

Recommendation 13: That insurers:

- (a) train staff, particularly staff reviewing decisions, on the use of genetic information; and**
- (b) in line with this training, review their actuarial and statistical data to enable any exclusions or increased pricing based on genetic conditions to be as minimal as possible.**

Trans and gender diverse people

42% of respondents (207) were trans or gender diverse. Research suggests approximately 1% of the total population are trans or gender diverse.⁵⁰

71.5% of trans and gender diverse respondents agree that insurance companies are generally helpful and supportive. 40% of trans and gender diverse respondents agree that insurance companies generally treat them fairly. However, only 29% of trans and gender diverse respondents agreed that insurance companies treat *LGBTIQ+ people* fairly. Significantly, 71% of trans and gender diverse respondents believed insurance companies are trying to understand and respect *LGBTIQ+ people*.

74% of trans and gender diverse respondents have experienced discrimination or exclusion when applying for an insurance product. 70% of trans and gender diverse respondents reported discrimination or exclusion by an insurance advisor or broker. 71% faced poor treatment or discrimination by a third-party insurance service provider. This is despite protections under the *Sex Discrimination Act 1984* that prevent discrimination based on gender identity.⁵¹ However, when trans and gender diverse respondents found it difficult to access, or had been refused, insurance, they self-report their sex characteristics (61%) as a far more dominant reason than their gender identity (26%).

62% of trans and gender diverse respondents have made a complaint to their insurance company related to being *LGBTIQ+*. 70% of trans and gender diverse respondents have been refused an insurance claim. Furthermore, 72% of trans and gender diverse respondents have been reluctant to make an insurance claim due to fear of discrimination or exclusion. In one case, a trans and gender diverse respondent told us they were referred to as a “pervert” by their insurer.

Trans and gender diverse respondents rated their contact with insurance companies, on average, 3.69 out of 5. About three quarters (73%) experienced excellent service and affirming customer experience with

⁴⁷ Androgen Insensitivity Syndrome Support Group Australia, ‘Submission to the Australian Human Rights Commission regarding their discussion paper on the protection and use of human genetic information’ (2003) 15.

⁴⁸ Androgen Insensitivity Syndrome Support Group Australia, ‘Submission to the Australian Human Rights Commission regarding their discussion paper on the protection and use of human genetic information’ (2003) 16.

⁴⁹ Androgen Insensitivity Syndrome Support Group Australia, ‘Submission to the Australian Human Rights Commission regarding their discussion paper on the protection and use of human genetic information’ (2003) 15-16.

⁵⁰ Marina Carman et al, *Research Matters: How Many People are LGBTIQ?* (2020) 6.

⁵¹ *Sex Discrimination Act 1984* s 5B.

insurance companies. These responses, taken together, suggest that trans and gender diverse respondents generally find insurance companies helpful and supportive and agree that they are trying to be inclusive - but they report their outcomes, namely treatment by the company, more negatively.

Whilst 73% of trans and gender diverse respondents feel comfortable disclosing their sex recorded at birth to their insurer to determine the pricing of some insurance products, 77% experienced intrusive questioning when seeking insurance, 74% in service interactions with insurers, and 68% during a claim process. As some respondents surmised:

I feel deeply uncomfortable about the ramifications of private health knowing or not knowing about my gender/sex history. I'm worried that if I share all of my info, they'll calculate a higher premium because trans people have awful health outcomes. I'm worried that if I don't share everything, they'll accuse me of lying and revoke cover or refuse rebates. I'm not even sure what my status is with them right now, I think my gender has been updated to 'female' as on my new birth certificate, but no idea if they've kept me as 'AMAB' in the system.

[Sex or gender] means nothing in the real world. If I was born with a heart defect (found commonly in men and women), declaring that I was born male will not change anything - but it will change how they assess me based on old science.

I called to ask for extra cover, they read the disclosures which had nothing about gender identity, I offered the information I am trans, and all of a sudden, "sorry ma'am we have to write you up as male"! Seriously? I hung up.

Many respondents were concerned about insurers knowing their gender history and feared that the information would be shared inappropriately. This can be ameliorated to some degree if proper privacy protections are in place and customers are clearly advised why this information is being sought. Insurers should also only be collecting sex or gender information when it is necessary. For example, insurers may collect data on sex or gender to make risk assessments. However, insurers need to carefully think through *why* they are collecting data or asking questions based on sex or gender. For example, a person with a family history of breast cancer is still at a higher risk of breast cancer even if they are a trans man. So, if a question about family history of breast cancer is only asked for female customers, it fails to capture trans men - and some non-binary people - who may also be at risk. This could be solved by asking gender neutral questions, as most insurers currently do. Furthermore, for many trans and gender diverse people, their sex records on birth certificates and the like will reflect their gender identity, so insurers need to carefully consider *why* they are asking customers about their sex recorded at birth.

The major issue that health insurers have is that their records *must* match what is on file with Medicare, including the customer's sex or gender, otherwise it causes a mismatch and claims are declined as a result. This means that until the customer can update their records on Medicare, the insurer cannot update theirs. Furthermore, because Medicare doesn't have any non-binary gender options beyond a file note on the customer profile as at the time of publishing, it also means that health insurers cannot allow non-binary or other gender diverse customers to identify themselves as such on their systems. Some health insurers have developed a work-around for this that does not impact on the claims experience; others have provided a non-binary gender option on their digital pathway. Medicare has also committed to introducing a non-binary gender option by July 2022.⁵² This is likely to affect only a very small number of customers but will make a big difference to those affected.

Updating gender

Over 3 in 4 trans and gender diverse respondents (76%) have had difficulty self-declaring their gender with insurers. For trans and gender diverse customers seeking to update their gender with an insurer, the most

⁵² Commonwealth, *Parliamentary Debates*, Senate Community Affairs Legislation Committee, 17 February 2022, 112.

important thing is correct acknowledgement of their affirmed gender on their policy document (ranking 3.95 out of 5 for importance) - far more important than not seeing a change to their existing price (2.65). There are also related issues to address: 72% have had difficulty updating their name and other information (including honorifics) with insurers; and 69% have had difficulty updating partner or family information with insurers. A common difficulty was in finding non-binary titles (such as Mx). Indeed, many gender-diverse respondents told us of simple difficulties in including their gender on forms:

Forms are very binary and there is a lack of non-binary options for pronouns and gender on forms.

This can be due to a lack of non-binary options and a perception that insurers must record a customer's sex assigned at birth. That perception needs to be challenged. It can often result in trans and gender diverse customers having documents that do not reflect their gender identity. As some respondents described:

Having to identify as male on forms when I hate having to select that but don't want to risk not being covered if something related to my being male occurred when I hadn't noted that.

I've never attempted to push the limits and just gone with my birth gender to avoid any issues or fraud, even though it doesn't align with me. This causes me dysphoria each time.

The Association of Superannuation Funds of Australia recommends that "members... should have the ability to have their gender identity recorded accurately and be communicated with accordingly. No assumptions should be made by member-facing staff as to the gender or gender identity of a member or a member's partner or spouse."⁵³ Furthermore, ASFA recommends awareness training for member-facing staff.⁵⁴ Some respondents provided positive examples of insurers' practices:

Changing my recorded name and sex with my insurer didn't even require any evidence of name change. The person I spoke to did it without any questions or hesitation.

After changing my legal name and gender I needed to update my details on my car insurance. It wasn't a difficult process compared to other situations where I had to do the same.

I've only had positive experiences... Each company when I have disclosed my transgender background have been incredibly accommodating and supportive, asking no more questions than absolutely required to process the request.

Others had more negative experiences about being misgendered or dead-named:

I was misgendered for... all my insurances - car, house, and home.

I have had to repeatedly correct dead name use, despite legally changing my name some time ago.

When it comes to selecting gender, they don't give you the option to select what gender you identify as, just male and female. I tried getting the insurance companies to insure me as my preferred gender, then asked them "back this up", that I'm going to have coverage as my preferred gender in writing. But they refused my requests. That left me stuck. [Only] one insurance company had the option for non-binary but this option, yet [for] this option, the quote was cost more than that of a female and male policy put together. I'm a disability support pensioner and I'm currently being strong-armed by the insurance companies to change the sex on my birth certificate from female to male. I am legally male on all documents except my birth certificate. I read the PDS and read that in the event of a claim, I will

⁵³ Association of Superannuation Funds of Australia, *Guidance Note: Insurance in Superannuation - Developing a Vulnerable Member Policy* (2021) 22.

⁵⁴ Association of Superannuation Funds of Australia, *Guidance Note: Insurance in Superannuation - Developing a Vulnerable Member Policy* (2021) 22.

be asked for documents. That it might be my licence, which is male, or my birth certificate, and if they got my birth certificate, they would void my insurance immediately as I would have lied on my application and policy. I lodged a complaint and the person who took the complaint is non-binary themselves and they confirmed my concerns. They went as far as to state that they cannot even get insurance from the company that they work for. Plus, that they had been praying that someone would also complain about this, as their complaint went nowhere.

Often it can take a considerable amount of time and constant contact for a trans and gender diverse customer to update their name and gender, with customers often having to submit copious documents and other information, often authenticated by witnesses. This is despite the General Insurance Code of Practice stating that, when it comes to identification requirements, “verification and identification will be flexible.”⁵⁵ Unfortunately, some respondents reported being laughed at when seeking to change their name or gender marker. As one respondent said:

I would prefer it if this could be done via a self-service online portal where you provide a self-declaration of your change of name/gender without needing to call the insurer and wait on hold and risk discrimination/adverse comments from the operator.

Navigating processes for updating one’s name and gender can be challenging but should not have to be that way. Insurers should, so far as is possible, provide non-binary gender and honorific options (where this information needs to be collected, which is not always), and ensure that processes for changing these and names are as simple as possible. There needs to be simple processes and clear pathways. Respondents also recommended that customer-facing staff undergo training to understand the needs of trans and gender diverse consumers. Central to many responses was the need for respect. If there is not a clear and simple process for changing names and gender markers, it has ramifications. One respondent concluded:

Changing names is always a bit of a nightmare - it’s generally easier just to cancel your insurance with one company and then sign up for a different company.

Life insurance raised particular issues for trans and gender diverse respondents. Some trans and gender diverse respondents feared that not disclosing their gender identity would mean that their children could not access their insurance cover if they passed away. As one described:

I have been living as a woman, had gender confirmation surgery, why should I get life insurance and then on my death, have my kids subjected to the dead-naming, the misgendering? At a time when they are at their lowest in terms of grief? Saddest state of affairs.

In summary, issues relating to sex and gender need to be dealt with sensitively and respectfully to ensure a positive customer experience.

Recommendation 14: That insurers review their practices regarding names, gender and titles to ensure that:

- (a) data on sex or gender is only collected where required;**
- (b) the reasons for collection of data on sex or gender and privacy protections in place are made clear at the point of collecting the data;**
- (c) questions are asked in a gender-neutral manner as far as is practicable;**
- (d) titles are only used where required;**
- (e) non-binary options for gender and titles are included;**
- (f) staff do not default to certain genders or titles based on assumptions about a customer’s gender or that of their partner;**

⁵⁵ Insurance Council of Australia, *General Insurance Code of Practice* (2021) 32.

- (g) processes for changing name, gender and titles are as simple and comprehensive as possible;
- (h) dead names and former genders or titles are removed from all records, except where required under law; and
- (i) all systems are updated.

Recommendation 15: That insurers review their process to ensure that a customer who is changing their name, gender or title need only speak to one customer service representative.

Coverage

87% of trans and gender diverse respondents have or had had health insurance, which is slightly higher than the percentage of overall respondents. Whilst the *Private Lives 3* report suggests lower levels of private health insurance amongst trans and non-binary people compared to cisgender people,⁵⁶ our research suggests the opposite. This is in line with findings from the Victorian Population Health Survey, which suggests that rates of private health insurance coverage are roughly even.⁵⁷

The *Trans Pathways* report calls on private health insurers to “include trans health needs in their coverage.”⁵⁸ Health insurers are bound by the *Private Health Insurance Act 2007*, which stipulates that, if Medicare covers a particular procedure and provides a Medicare Benefits Schedule item number, then it can be covered by insurance provided the customer has the right level of cover and has sat out any waiting periods. This is where many barriers arise when it comes to providing insurance coverage for gender affirmation procedures, as the path to obtaining a Medicare Benefits Schedule item number is often difficult for customers.

Although the Medicare Benefits Schedule does not cover gender affirmation or reassignment services as a specific item, certain individual procedures and services within the gender affirmation journey may be covered and subject to rebates. The fundamental principle underlying whether a procedure or service is covered or not is that procedures or services which are aesthetic or merely cosmetic in nature are ineligible for coverage.

The gender affirmation procedures that fall under the Medicare Benefits Schedule include inpatient hospital procedures like breast removal (top surgery), breast augmentation, genital reconstructive surgeries, orchiectomies (removal of testicles), urethroplasty (to facilitate standing urination). Mental health appointments under a care plan and related pharmaceuticals such as hormone therapies are also generally covered under insurance policies if they are certified to be for gender affirmation purposes rather than for purely cosmetic purposes. Some plastic and reconstructive surgeries, such as free grafting surgery, are covered. Procedures like facial feminisation surgeries and vocal shaving procedures are generally not covered, nor is laser hair removal. Moreover, items associated with vaginoplasty usually only attract rebates for people who are certified as suffering from “congenital disorder of sexual differentiation”. This can often necessitate travel overseas to access these procedures.

The Australian Government has advised that “before a new medical procedure or treatment can be publicly funded on the MBS, an application would need to be assessed by the Medical Services Advisory Committee

⁵⁶ Adam Hill et al, *Private Lives 3: The Health and Wellbeing of LGBTQ People in Australia* (2020) 54.

⁵⁷ Victorian Agency for Health Information, *The Health and Wellbeing of the Lesbian, Gay, Bisexual, Transgender, Intersex and Queer Population in Victoria: Findings from the Victorian Population Health Survey 2017* (2020) 128.

⁵⁸ Penelope Strauss et al, *Trans Pathways: The Mental Health Experiences and Care Pathways of Trans Young People* (2017) 141.

(MSAC)... To date, no application has been submitted to MSAC to list specific gender affirmation surgery items on the MBS.”⁵⁹

Whether a gender affirmation procedure is covered or not under the Medicare Benefits Schedule also depends on how it is certified or explained by a medical professional. Despite “gender identity disorder” being removed from the World Health Organisation’s International Classification of Diseases in 2019, in order to qualify for a Medicare rebate (and subsequent health insurance coverage) there has to be a diagnosis of “gender dysphoria” provided by a qualified registered psychiatrist. (Gender dysphoria appears in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, fifth edition.) This can also be required to access procedures like hormone therapy. The diagnostic pathway is difficult to access and cost-prohibitive - a diagnostic appointment with a psychiatrist runs about \$650 on average, with a customer able to claim \$280 of that back from Medicare - and the waiting list for new patients to see a psychiatrist who specialises in gender can be lengthy. As some respondents said:

Being transgender should not be a pre-existing condition for surgery. It was removed from the DSM-5, why are we still being forced to wait to get our literal necessary surgery because we're trans?

[Insurers] treat being gender diverse like a disability. Which is especially problematic when you also separately have a disability.

This can have some complexities, which may cause trans and gender diverse customers to seek out LGBTIQA+-friendly brokers. As one respondent told us:

In the process of organising [life insurance] through a broker who is LGBTIQ friendly (or she was to me!). She has found [me] a company that does not automatically exclude mental health for trans people who have had to see a psychiatrist to gain access to hormones and surgery.

Insurers can assist in this process by providing information on the website about coverage for trans and gender diverse people. The information should also include whether and how the insurer covers gender affirmation procedures (not just limited to surgery), including the item numbers covered and the level of cover required to be partially or fully covered. Insurers can also provide advice on filling out and submitting the Medicare two-way claim form. Some respondents reported positive experiences:

The person I spoke to about what level of cover I needed regarding top surgery (double mastectomy) and I disclosed me being trans so that they understood what I needed I found the lady very knowledgeable regarding transgender issues. Very impressed with her openness and didn't feel judged at all.

Others reported that insurers “have no idea about gender affirming healthcare” or had a “lack of knowledge around insurance levels for gender affirmation surgeries.” Some even reported being refused cover - or having a large loading added - because of their trans status. What is desperately needed is a consistency of approach. As some respondents told us:

I got [health insurance] specifically for chest surgery and they had no idea. They thought I was asking for a vasectomy.

When I was pursuing gender reassignment surgery, I asked some very pointed and specific questions of a representative for the insurance company I was with at the time. She didn't have the answers for me, and I left wondering if I'd chosen the wrong insurance company, despite having been recommended [to] them for this specific thing. I went back a different day and spoke to a different representative, who had the answers to the questions I had, and gave me really good, specific advice

⁵⁹ Letter from Greg Hunt MP, Minister for Health and Aged Care, to Ken O'Dowd MP, Chair of the Standing Committee on Petitions, 23 December 2021.

about what to ask about eligible hospitals, and my specific cover itself for GRS. It started off not great, and ended up being pretty bloody good, actually.

It should not be up to a trans customer to educate their insurer about coverage of gender affirmation procedures. Insurers need to be proactive about providing information. As some respondents said:

I've tried a few times to get clear answers about rebates for gender affirming treatments, and it has always been difficult. I'm especially keen for private health to cover hair removal but hit dead ends so many times I've given up. The cost is exorbitant, and I wish private health covered laser/electrolysis.

As a woman with a transgender history, applying for health insurance is a daunting task when seeking sufficient coverage to include gender affirming surgeries, which of course are not mentioned in public facing material including PDS and brochures etc. I raised this with the representative of my health insurer when asked what I was looking for in private health cover, and she immediately allayed my fears, said immediately what tier it would be covered by, and further asked if I would like it confirmed to writing via email.

Respondents described negative customer service as “outrageous”, “upsetting”, “unhelpful” and, in some cases, “transphobic”. Some respondents complained about having to re-explain requests for gender affirmation procedures in each interaction with a customer service representative or having representatives assume that any request is in relation to gender affirmation procedures simply because a customer is trans or gender diverse. When representatives were pulled up, some offered excuses for their behaviour, including “we didn’t mean it”, which failed to show respect for the distress caused. Often even the fear of poor treatment can make trans and gender diverse customers reluctant to make a claim. But one respondent said:

I'm prepared to fight for what I'm entitled to under my policy, so I won't hesitate to make a claim.

Recommendation 16: That insurers provide publicly available information as to whether and what gender affirmation procedures are covered by their insurance policies, including:

- (a) the Medicare Benefits Schedule item numbers covered;**
- (b) the level of cover required to be partially or fully covered; and**
- (c) advice on filling out and submitting the Medicare two-way claim form.**

Gender ratings

Some respondents reported that the risk rating for car insurance is based on gender and that it tends to be very binary. Statistically, men, particularly young men, have been shown to be more frequent and riskier drivers, and are often charged a higher premium as a result. As indicated above, insurers can only discriminate on sex when it is based on actuarial and statistical data. This can, however, leave non-binary and some trans drivers in a difficult situation, causing confusion and anguish. In some cases, non-binary drivers will be forced to identify as either male or female on an application. Trans drivers may be forced to identify in a way that is not consistent with their gender identity because their insurer requires official documentation, including a driver’s licence, to update their gender.

Insurers could feasibly make risk assessments based on what is known about trans and non-binary drivers, but most, if not all, tend to make binary gender assumptions. Indeed, one of our respondents acknowledged that “there’s not much information regarding risk factors for the gender diverse community.” Another stated that there is no non-binary option “when assessing insurance costs since gender factors into their assessment for risk.” Some respondents argued that insurance pricing should be equal according to gender. At the very least, insurers must only discriminate on sex when it is based on actuarial and statistical data, not on outdated information. As our respondents asserted:

For health insurance... some conditions are affected by biology and knowing both sex and gender are legitimate issues that can affect health. For other insurance types, the answer [to the question of whether it is appropriate for data to be collected on sex assigned at birth] would be no.

Put simply it is an irrelevant consideration. I am a woman; my history is for me and my treating doctor only. For health insurance there may be more relevance... For all other forms of insurance, statistically, I am no different to any other mid 20s woman who was not transgender.

My performance as a driver is a learnt skill related to how I interact with the world and is not related to my DNA or sexual organs.

Insurers also need to consider that, particularly for trans and gender diverse people undergoing hormonal treatment, sex assigned at birth may not be the right criteria on which to make risk assessments. Some insurers will assign non-binary drivers to the lower risk rating gender category, which is female, or average the male and female rating to calculate cost. Obviously, this is not based on actuarial and statistical data, and therefore may be subject to challenge.

The rise in customers identifying as non-binary or as a different sex to that which they were assigned at birth poses challenges for insurers who make risk rating based on (binary) sex. Insurers need to confront these challenges in a way that is respectful of trans and gender diverse customers.

Recommendation 17: That the Insurance Council of Australia and Financial Services Council work with insurers to develop a consistent approach for risk rating based on sex or gender that:

- (a) is informed by actuarial and statistical data;**
- (b) accounts for the experiences of trans and gender diverse people; and**
- (c) is respectful in approach.**

Sex workers

Research suggests 0.9% of men and 0.5% of women in Australia have sold sex,⁶⁰ and around 20% of gay men have done so.⁶¹ Given this, we asked our respondents about this, and found that 31% of respondents (152) were a current or former sex worker.

Respondents who were a current or former sex worker rated their contact with insurance companies, on average, 3.79 out of 5. Furthermore:

- 32% felt that insurance companies treated them fairly
- 82% experienced excellent service and affirming customer experience with insurance companies
- 85% faced discrimination or exclusion when applying for an insurance product

Some sex workers reported positive experiences. For example, one sex worker who worked for an insurance company said that their employer was “extremely supportive”. However, others experienced discrimination, including refusal of insurance, because of their sex worker status. This has led some respondents to seek out supportive insurance brokers. As one respondent told us:

I found a good broker who I already knew was sex worker friendly. I didn't try anyone else.

⁶⁰ Chris Rissel et al, ‘Sex in Australia: Experiences of commercial sex in a representative sample of adults’ (2003) 27(2) *Australian and New Zealand Journal of Public Health*.

⁶¹ Garrett Prestage et al, *Pleasure and Health: The PASH Study* (2010).

Unlike other attributes, there is no clear federal protection for sex workers against discrimination, with some states and territories prohibiting discrimination on the basis of lawful sexual activity or occupation.⁶² However, some respondents reported that their experiences of discrimination have meant that they “don’t bother applying” for insurance.

General sentiments

The discrimination that sex workers experience can manifest itself in different ways. 88% experienced intrusive questioning when seeking insurance, 79% in service interactions with insurers, and 75% during a claim process. This can include questioning about sexual history. Furthermore:

- 81% faced poor treatment or discrimination by third-party insurance service providers
- 80% had been refused insurance claims
- 79% had been reluctant to make insurance claims due to fear of discrimination or exclusion

This is not assisted by questions on insurance forms that use outdated language like “prostitute”, which may dissuade sex workers from disclosing their occupation in applications and claims.

Recommendation 18: That insurers review applicant questionnaires to ensure that questions about sex work are asked in a sensitive manner.

Insurance products

Insurance can be difficult to obtain for sex worker and other sex industry businesses. 83% of respondents who were a current or former sex worker had experienced discrimination or exclusion by an insurance advisor or broker. As a result, some brokers have emerged to provide specialist brokerage to the adult industry.

88% of respondents to our survey have or previously had health insurance. In another survey conducted by Scarlet Alliance, some respondents reported that they had been refused health insurance, or made to pay higher premiums, due to an assumption that they at a greater risk of contracting sexually transmitted infections. This survey is over two decades old and may not reflect current industry practice and restrictions around refusal of health insurance. Nevertheless, Scarlet Alliance’s recommendation that “insurance providers should be compelled to provide reasons for denial of health coverage to sex workers”⁶³ is arguably good practice and would inform customers who have been denied coverage clear reasons for this.

79% of respondents to our survey have or previously had home building, contents, landlord or strata insurance. However, some respondents to Scarlet Alliance’s survey indicated that they were unable to secure home and contents insurance and mortgage insurance against loss of income.⁶⁴

83% of respondents to our survey have or previously had stand-alone life, income protection or disability insurance. However, one respondent reported that they were refused life insurance because of a policy rule that deemed sex work a “dangerous occupation”. As another respondent described:

⁶² *Sex Work Decriminalisation Act 2022* (Vic) s 34; *Discrimination Act 1991* (ACT) s 7(1)(p); *Anti-Discrimination Act 1991* (Qld) s 7(l).

⁶³ Scarlet Alliance, *Unjust and Counter-Productive: The Failures of Governments to Protect Sex Workers from Discrimination* (1999) 22.

⁶⁴ Scarlet Alliance, *Unjust and Counter-Productive: The Failures of Governments to Protect Sex Workers from Discrimination* (1999) 19.

They will cover me for income protection but not for life insurance policy. So, they will cover if I am ill and unable to work but not if I die or am permanently disabled.

One respondent suggested that insurers' risk analysis processes need to be brought into the twenty-first century [and] based on evidence."

Some sex workers may need to take out public liability insurance to cover claims by clients and other third parties for any injury caused to them or damage to their property. 74% of respondents who were a current or former sex worker had or previously had business insurance. However, many public liability policies do not cover adult services and one respondent described business insurance as "useless" in this regard. Others reported being knocked back for insurance because of their sex worker status. Similarly, some sex industry businesses will require property insurance, including building and contents insurance and workers' compensation insurance, but could be discriminated against because of ostensibly moral judgments.

It is important that insurers are up-front about whether adult or sexual services are covered by their business and public liability insurance policy, and that brokers can direct sex workers and sex industry businesses in the right direction.

Recommendation 19: That insurers:

- (a) provide publicly available information as to whether sex work is covered by their insurance policies; and**
- (b) review, with a view to removing, exclusions or premiums that are based purely on sex work.**

Rainbow families

The *Private Lives 3* report suggests that approximately one in seven (13%) LGBTIQ people have a child or stepchild.⁶⁵

Whilst the survey did not ask specific questions about the experiences of rainbow families, some respondents drew attention to it in their responses. One respondent mentioned that questions around families were not inclusive of different household structures:

Often questions about families don't include what my family looks like, i.e., single parent family with lesbian partner not cohabiting.

More can be done to ensure that questions reflect different family types and household structures.

Assisted reproductive treatment

There are issues around health insurance for assisted reproductive treatment for same gender couples. In 2020, the Medicare Benefits Schedule Review Taskforce's Gynaecology Clinical Committee recommended that the Medical Service Advisory Committee consider the issue of "social infertility" and whether access to publicly funded intrauterine insemination and other assisted reproductive technology services should be expanded to same-gender couples.⁶⁶ Due to the barriers to accessing assisted reproductive treatment on the basis of "social infertility", some states and territories will require people accessing assisted reproductive treatment to attend counselling sessions and the like, which can be confronting for the couple and difficult for the service provider due to a lack of clear guidelines. As the Victorian Attorney-General recently stated,

⁶⁵ Adam Hill et al, *Private Lives 3: The Health and Wellbeing of LGBTQ People in Australia* (2020) 31.

⁶⁶ Medicare Benefits Schedule Review Taskforce, *Taskforce Report on Gynaecology MBS Items* (2020) 24-25.

reforms to counselling requirements for same-gender couples “require consideration as to how transactionally it would interact with Medicare.”⁶⁷ As such, it is important that insurers provide clear information on coverage of assisted reproductive treatment, and associated procedures such as counselling, for same-gender couples.

Recommendation 20: That health insurers provide publicly available information as to whether assisted reproductive treatment is covered by their insurance policies, and what steps need to be taken by same-gender couples seeking cover.

Surrogacy

In the case of surrogacy, intended parents may want to obtain life and disability insurance for their surrogate, her family and themselves and their future family. This can often be a confusing and complex process, particularly considering the laws on surrogacy, and an added cost on top of other medical and legal costs. Intended parents can also face ignorance and, in some cases, stigma from insurers who avoid taking them on as customers. This can be emotionally draining.

Insurers need to ensure that they are welcoming and understanding towards intended parents and that their policy wording towards people having children includes those having children through surrogacy or blended family models. There is also a need for guidance that steps intended parents through the process of obtaining life and disability insurance, so they fully understand what is required.

Recommendation 21: That insurers provide publicly available information as to whether surrogacy arrangements are covered by their insurance policies, and what steps need to be taken for those seeking cover.

People experiencing mental health issues

According to the *Private Lives 3* report, 73% of LGBTIQ people have been diagnosed with a mental health condition at some point during their lives.⁶⁸ This compares to 45.5% among the general Australian population.⁶⁹

Health insurance coverage is particularly important given the higher rates of mental health issues amongst LGBTIQ+ populations, which creates vulnerabilities.

Whilst health insurers cannot discriminate based on health status, there is still a *perception* that they will discriminate based on mental health issues. As one respondent noted:

Mental health and antidepressants are a discriminatory factor for most health insurers.

This perception is concerning, as it can form a barrier to people experiencing mental health issues applying for health insurance. This barrier can be brought down by insurers providing clear information on coverage of mental health under their insurance plans.

There were also sensitivities around questions about mental health in insurance applications, with respondents suggesting that any such questions needed to be framed in a culturally safe manner. One respondent reported being “denied life insurance because of mental health/depression/suicidality, despite the

⁶⁷ Victoria, *Parliamentary Debates*, Legislative Council, 7 October 2021, 3649.

⁶⁸ Adam Hill et al, *Private Lives 3: The Health and Wellbeing of LGBTQ People in Australia* (2020) 48.

⁶⁹ Tim Slade et al, *The Mental Health of Australians 2: Report on the 2007 National Survey of Mental Health and Wellbeing* (2009).

application being more than five years post-depression.” This was not uncommon. As another respondent said:

I recently changed my level of insurance cover through my super fund and was asked a series of screening questions to identify if I had any pre-existing conditions. Given anxiety and depression are pre-existing conditions for me, I'm now excluded from cover for any disability related to mental illness. I assume I would still be covered if I didn't change my level of cover. The person conducting the questionnaire over the phone was exceptionally cold and did not attempt to explain anything to me at the time. The information I was providing was very sensitive for me, and I don't think it was treated with respect.

This underscores the need for insurers to ensure that any exclusions or increased pricing based on mental health are based on sound actuarial and statistical data, and that there are policies, procedures, and training in place to assist customers with a past or current mental health condition.

The Insurance Council of Australia's *Guide on Mental Health* states that “where possible, insurers should provide cover to persons with a past or current mental health condition and manage risk through policy pricing, exclusions, limits and caps based on actuarial and statistical data and other relevant factors, rather than not provide cover at all.”⁷⁰ In addition to the legal obligations outlined above:

- insurance coverage should be affordable, with pricing reflecting the risk and the value of the cover provided;⁷¹
- “exclusions for pre-existing mental health conditions should only apply where there is evidence that an applicant has an existing mental health condition, or is at risk of a recurrence of a past mental health condition”;⁷²
- “where cover is not offered or is provided on terms deviating from the standard policy, insurers should provide the applicant with a statement of written reasons in plain language”;⁷³ and
- “insurers should continually seek to obtain better data to enable any exclusions to be narrowly designed”.⁷⁴

The Guide also recommends that insurers should improve the provision of products and services to consumers with a past or current mental health condition, in collaboration with consumers, consumer advocates and mental health professionals.⁷⁵ Similarly, insurers should develop and implement policies and procedures to guide their sales and claims processes for consumers with a past or current mental health condition to ensure that such processes are sensitive and respectful.⁷⁶

⁷⁰ Insurance Council of Australia, *Guide on Mental Health* (nd) 3.

⁷¹ Insurance Council of Australia, *Guide on Mental Health* (nd) 3.

⁷² Insurance Council of Australia, *Guide on Mental Health* (nd) 3.

⁷³ Insurance Council of Australia, *Guide on Mental Health* (nd) 5.

⁷⁴ Insurance Council of Australia, *Guide on Mental Health* (nd) 3.

⁷⁵ Insurance Council of Australia, *Guide on Mental Health* (nd) 4.

⁷⁶ Insurance Council of Australia, *Guide on Mental Health* (nd) 4.

Finally, insurers should train staff on dealing sensitively with consumers with a past or current mental health condition.⁷⁷ The Financial Services Council's Standard provides guidance on insurers' mental health education programs.⁷⁸

Recommendation 22: That insurers review their actuarial and statistical data to enable any exclusions or increased pricing based on mental health conditions to be as minimal as possible.

Recommendation 23: That insurers develop and implement policies and procedures to guide their sales and claims processes for customers with a past or current mental health condition, in collaboration with consumers, consumer advocates and mental health professionals.

Recommendation 24: That insurers provide training and education to staff, particularly service or sales staff, on dealing sensitively with customers with a past or current mental health condition in accordance with the Financial Services Council's *Standard No. 21: Mental Health Education Program and Training*.

All recommendations

Recommendation 1: That insurers provide LGBTIQ+ training to staff, particularly service or sales staff, to:

- help them understand if customers may be LGBTIQ+;
- how best to support LGBTIQ+ customers;
- how to take account of the needs of LGBTIQ+ customers; and
- how to engage with LGBTIQ+ customers with sensitivity, dignity, respect and compassion, including identifying additional support for LGBTIQ+ customers.

Recommendation 2: That insurers review their communications and marketing material to ensure that it includes depictions of LGBTIQ+ people and inclusive language.

Recommendation 3: That insurers provide publicly available information as to whether and how LGBTIQ+ people are covered by their insurance policies, consistent with the recommendations in this report.

Recommendation 4: That the Financial Services Council review and update its *Life Insurance Code of Practice* to include a section on vulnerable customers, including LGBTIQ+ people.

Recommendation 5: That the Financial Services Council review and update its *Guidance Note No. 32: HIV/AIDS Underwriting Guidelines* in consultation with HIV peer organisations.

Recommendation 6: That insurers review applicant questionnaires to ensure that questions about HIV are asked in a sensitive manner.

Recommendation 7: That insurers provide publicly available information as to whether people living with HIV are covered by their insurance policies, developed in consultation with HIV peer organisations to ensure appropriate messaging.

Recommendation 8: That, in reviewing and updating its *Guidance Note No. 32: HIV/AIDS Underwriting Guidelines*, the Financial Services Council provide guidance to insurers on PrEP.

⁷⁷ Insurance Council of Australia, *Guide on Mental Health* (nd) 5.

⁷⁸ Financial Services Council, *Standard No. 21: Mental Health Education Program and Training* (2021).

Recommendation 9: That insurers review their actuarial and statistical data in line with current medical advice to enable any exclusions or increased pricing based on HIV to be as minimal as possible.

Recommendation 10: That insurers review, with a view to removing, exclusions or premium loadings for people living with HIV, particularly in situations where the HIV is being managed through treatment.

Recommendation 11: That insurers provide publicly available information as to whether people with a variation of sex characteristics are covered by their insurance policies, developed in consultation with intersex peer organisations to ensure appropriate messaging.

Recommendation 12: That insurers review applicant questionnaires to ensure that questions about sex or gender are:

- only asked where necessary;
- consistent with [Intersex Human Rights Australia's guidance on forms and data collection](#); and
- accompanied by appropriate privacy protections.

Recommendation 13: That insurers:

- train staff, particularly staff reviewing decisions, on the use of genetic information; and
- in line with this training, review their actuarial and statistical data to enable any exclusions or increased pricing based on genetic conditions to be as minimal as possible.

Recommendation 14: That insurers review their practices regarding names, gender and titles to ensure that:

- data on sex or gender is only collected where required;
- the reasons for collection of data on sex or gender and privacy protections in place are made clear at the point of collecting the data;
- questions are asked in a gender-neutral manner as far as is practicable;
- titles are only used where required;
- non-binary options for gender and titles are included;
- staff do not default to certain genders or titles based on assumptions about a customer's gender or that of their partner;
- processes for changing name, gender and titles are as simple and comprehensive as possible;
- dead names and former genders or titles are removed from all records, except where required under law; and
- all systems are updated.

Recommendation 15: That insurers review their process to ensure that a customer who is changing their name, gender or title need only speak to one customer service representative.

Recommendation 16: That insurers provide publicly available information as to whether and what gender affirmation procedures are covered by their insurance policies, including:

- the Medicare Benefits Schedule item numbers covered;
- the level of cover required to be partially or fully covered; and
- advice on filling out and submitting the Medicare two-way claim form.

Recommendation 17: That the Insurance Council of Australia and Financial Services Council work with insurers to develop a consistent approach for risk rating based on sex or gender that:

- is informed by actuarial and statistical data;
- accounts for the experiences of trans and gender diverse people; and
- is respectful in approach.

Recommendation 18: That insurers review applicant questionnaires to ensure that questions about sex work are asked in a sensitive manner.

Recommendation 19: That insurers:

- provide publicly available information as to whether sex work is covered by their insurance policies; and
- review, with a view to removing, exclusions or premiums that are based purely on sex work.

Recommendation 20: That health insurers provide publicly available information as to whether assisted reproductive treatment is covered by their insurance policies, and what steps need to be taken by same-gender couples seeking cover.

Recommendation 21: That insurers provide publicly available information as to whether surrogacy arrangements are covered by their insurance policies, and what steps need to be taken for those seeking cover.

Recommendation 22: That insurers review their actuarial and statistical data to enable any exclusions or increased pricing based on mental health conditions to be as minimal as possible.

Recommendation 23: That insurers develop and implement policies and procedures to guide their sales and claims processes for customers with a past or current mental health condition, in collaboration with consumers, consumer advocates and mental health professionals.

Recommendation 24: That insurers provide training and education to staff, particularly service or sales staff, on dealing sensitively with customers with a past or current mental health condition in accordance with the Financial Services Council's *Standard No. 21: Mental Health Education Program and Training*.