



Development of the Consular Strategy 2017-19: Mental Health

beyondblue Submission

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Georgie Harman

Chief Executive Officer

beyondblue

PO Box 6100

HAWTHORN WEST VIC 3122

Tel: (03) 9810 6100

beyondblue is a national, independent, not-for-profit organisation working to promote good mental health and prevent suicide. Our vision is that all people in Australia achieve their best possible mental health. We create change to protect everyone's mental health and improve the lives of individuals, families and communities affected by depression, anxiety and suicide.

This submission has been informed by *beyondblue's* extensive work to improve access to insurance for people with a mental health condition; influence the industry to make changes to their policies and practices; and bring greater fairness to the insurance market based on contemporary evidence. *beyondblue* would also like to acknowledge the collaborative work we have undertaken with Mental Health Australia, the Public Interest Advocacy Centre and Victoria Legal Aid.

beyondblue is keen to work in collaboration with government to ensure that insurers do not unfairly discriminate on mental health grounds and apply sound, effective and proportionate judgement to individual insurance policy applications and claims, based on robust, contemporary statistical and actuarial data.

Summary of key points

We believe that the Consular Services can play a key role in supporting people at risk of insurance discrimination and working with the industry to prevent its occurrence. We also believe consular services have an important role to play more broadly in supporting people who experience a mental health event while travelling.

People need to purchase travel insurance that gives them comprehensive protection against as many foreseen and unforeseen circumstances as possible. It is therefore concerning, that in Australia the majority of travel insurance products include blanket exclusion clauses or require declaration of poor mental health or mental health risk factors in a previous specific time period. These blanket mental health exclusions can be included in policies regardless of the mental health status of the individual policy holder; **even a healthy individual who experiences their first episode of poor mental health can sometimes be excluded.**

Furthermore, even people with a known mental health condition who purchase appropriate cover may not be adequately covered or struggle to get insurance, even at higher premiums or with a mental health exclusion. The impact on the traveller and the ripple effect on their family and even on consular staff can be considerable.

In addition, people with a mental health condition often have negative experiences with accessing and claiming on their travel insurance if they need to.

A 'one-size-fits all' approach by the insurance industry conflates mental health symptoms with mental health conditions and lumps all mental health conditions together as a homogenous group.

As a result, everyone with a mental health condition is seen as high risk and/or uninsurable.

However in reality each mental health condition is different in its prevalence and prognosis, and each individual experience is different. Each condition needs to be assessed independently and on the basis of diagnosis and not just symptoms.

3 out of 4 mental health conditions have their first onset before the age of 25.¹ Although the majority of people will recover and stay well, insurance industry practices may deem a person as high risk for the rest of their lives and preclude them reasonable and/or affordable coverage.

Recommendations on the development of the Consular Strategy 2017-19

Recommendations for Smartraveller website:

Strengthen the information on the Smartraveller website in relation to travel insurance and mental health by:

1. Providing a direct link on the Smartraveller homepage to the '[Australian travellers with mental health conditions](#)' section.
2. Provide a direct link to the [beyondblue](#) website on this page to provide information to travellers on signs and symptoms of poor mental health; *beyondblue* can provide advice on appropriate content for this new section.
3. Adding a section within the page called 'Mental health and travel insurance', to include information on:
 - policyholder rights and responsibilities in relation to disclosure of pre-existing conditions;
 - a list of insurers that provide mental health cover for pre-existing conditions and for first mental health episodes;
 - Develop a mental health specific step-by-step guide for policy holders to review if their 'travel insurance product is right for me?'

Recommendations for mental health standard for all consular staff:

4. Building on DFAT's commitment to be an active participant in *beyondblue's* Heads Up program, staff should be appropriately trained and supported in their function; includes development and implementation of a mental health training standard as part of the Consular's existing occupational health, safety and wellbeing plan; *beyondblue* can provide information and advice on this.
5. Support consular staff and users of consular services by providing *beyondblue* resources within consular settings.
6. Start collecting data on the number of specific mental health related cases managed by consular staff each year; ideally this would be publicly reported.

Recommendations to improve travel insurance coverage for people with mental health conditions:

7. Advocate for insurance providers to remove blanket mental health exclusions in all travel insurance products as a priority, as these clauses treat all mental health conditions as the same and all people with a mental health condition as homogenous and high risk.
8. Encourage insurance providers to develop a travel insurance product that provides insurance cover for a person travelling overseas with an existing mental health condition; this will help to reduce the burden on consular services as this population group is currently travelling mostly uninsured.
9. Advocate for insurers to undertake individualised risk assessment of people who disclose a current or past mental health condition. Risk assessment needs to take into consideration individual circumstances that are likely to influence their risk profile, including the full range of relevant risk and protective factors that impact on outcomes.
10. Advocate for insurance companies to clearly communicate, more than just providing the Product Disclosure Statement to the policy holder, the exact level of insurance coverage provided based on personal circumstances disclosed especially when a policy holder has a pre-existing condition or the product contains a blanket mental health exclusion.



Introduction

beyondblue welcomes the opportunity to provide a submission informing the development of the Australian Government's Consular Strategy 2017-2019.

This submission provides recommendations to:

- Formalise appropriate mental health training reflective of a staff member's function and the degree of exposed risk.
- Develop and prominently locate a specific webpage on the Smartraveller website detailing the implications of mental health for travel insurance coverage.
- Support and advocate for the insurance industry to remove blanket mental health exclusions from travel insurance products.
- Work with insurance companies to develop a travel insurance product that ensures people with mental health conditions are covered while travelling overseas.

Each year almost 10 million Australians travel overseas. While most make the journey without incident a significant minority will experience some form of adverse event such as injury or illness. Many of these cases will require consular assistance – particularly if the person is not adequately insured. In recognition of this, the Australian Government has long championed the importance of traveller's insurance, including through its Smartraveller website. Such initiatives are making a difference with a recent survey finding that ninety-two percent of survey respondents said they purchased travel insurance before embarking.

But the mere purchase of travel insurance is not sufficient. People need to purchase travel insurance that gives them comprehensive protection against as many foreseen and unforeseen circumstances as possible. It is therefore concerning, that in Australia the majority of travel insurance products include blanket mental health exclusion clauses or require declaration of mental health or mental health risk factors in a previous specific time period. These blanket mental health exclusions can be included in the policies regardless of the mental health status of the individual policy holder; **even a healthy individual who experiences their first mental health episode can sometimes not be covered.**

Furthermore, even people with a known mental health condition who purchase appropriate cover may not be adequately covered or struggle to get travel insurance, even at a higher premium or with a mental health exclusion. The impact on the traveler and the ripple effect on their family and even on consular staff can be considerable.

beyondblue believes there is a problem of mental health insurance discrimination within the travel insurance industry. Actual discrimination by the travel insurance market is unfair and harmful. It infringes on people's access to insurance products when they travel overseas. *beyondblue* has worked with the insurance industry since 2002 in good faith to tell them what we have been hearing and encouraging them to change the way they deal with people who have experienced a mental health condition. Despite all efforts over many years we continue to hear negative experiences of the insurance industry from people affected by mental health conditions.

We believe that the Consular Services can play a key role in supporting people at risk of insurance discrimination and working with the industry to prevent its occurrence. We also believe consular services have an important role to play more broadly in supporting people who experience a mental health event while travelling.

These solutions focus on four key steps:

- Educating the public about insurance discrimination and the limits that are currently placed on most policies with respect to mental health conditions.
- Encouraging people to review their policies and purchase policies that are right for them.
- Providing education and training to consular services to assist people who experience a mental health event while travelling.
- Working with the insurance industry to reform travel insurance products to provide more favourable conditions for travellers.

Mental Health Context

Summary of key points

Mental health conditions are a range of clinically diagnosable conditions. As a group, mental health conditions are relatively common, however the prevalence rates for specific conditions is much lower.

A wealth of data exists on major conditions such as depression and anxiety, demonstrating that the severity of a condition can vary from mild, moderate to severe and that each condition also has its own typical age of onset, age and gender distribution and clinical course. It is therefore important to recognise that each condition is different and each individual's experience of a condition is different.

Effective treatments exist for the majority of mental health conditions and remission and recovery are the norm, although some people may experience relapses of their condition, or persistent symptoms. Others have a single episode in life and never again.

Australian government policy emphasises the need for a joint whole-of-government and whole-of-community approach that requires every individual, group, organisation and community to assure the rights of people with mental health conditions and to enable them to participate meaningfully in society.

Tackling stigma and discrimination is a major emphasis of bipartisan mental health policy.

Definitions

The World Health Organization defines mental health as more than the absence of mental disorders but as:

"a state of well-being in which an individual realises his or her own abilities, can cope with the normal stressors of life, can work productively and is able to make a contribution to his or her community".²

Australia's National Mental Health Policy 2008 defines a mental illness in the following way:

"A clinically diagnosable disorder that significantly interferes with an individual's cognitive, emotional or social abilities. The diagnosis of mental illness is generally made according to the classification systems of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or the International Classification of Diseases (ICD)".³

While the DSM V and ICD-10 list numerous mental illnesses, the specific conditions that are of most public health significance in Australia include depression, anxiety, substance use disorders and psychotic disorders.⁴

The terms mental health conditions, mental disorders and mental illness are often used interchangeably. Based on feedback provided to us by people affected by depression and/or anxiety *beyondblue* prefers the term **mental health conditions** and uses this term throughout the submission to refer to mental illness.

Prevalence

As a group, mental health conditions are relatively common. The 2007 National Survey of Mental Health and Wellbeing found that in the year prior to the survey around 1 in 5 Australians aged 16-85 had experienced a mental health condition at some point. The survey also found that over their lifetime, around 45 per cent of Australians reported that they had experienced some sort of mental health condition.⁵

However, when looking at specific conditions in isolation, the prevalence rates are substantially lower. For example, the 2007 National Survey of Mental Health and Wellbeing found the following 12 month and lifetime prevalence rates:

- Depressive episodes 4.1% 12 month prevalence, 11.6% lifetime prevalence
- Dysthymia 1.3% month prevalence, 1.9% lifetime prevalence
- Bipolar affective disorder 1.8% 12 month prevalence, 2.9% lifetime prevalence
- Panic disorder 2.6% 12 month prevalence, 5.2% lifetime prevalence
- Agoraphobia 2.8% 12 month prevalence, 6% lifetime prevalence
- Social phobia 4.7% 12 month prevalence, 10.6% lifetime prevalence
- Generalised anxiety disorder 2.7% 12 month prevalence, 5.9% lifetime prevalence.

It is also important to note that each condition demonstrates its own unique pattern of age of onset, gender distribution and distribution across the lifespan.

Mental health conditions are common in the Australian population. With almost 10 million Australia travelling overseas each year⁶, access to adequate travel insurance coverage for people with mental health conditions is essential to ensure that all Australian's are safe and supported when travelling overseas.

Prognosis

Illness severity, and the impact of symptoms on daily functioning, varies widely from person-to-person and can range from mild, moderate to severe.⁷ In addition, **each mental health condition demonstrates its own patterns of remission, relapse or persistence.**⁸ For example, around half of people who experience an episode of depression will experience a single episode, recover completely and never experience future difficulties, while the other half may experience one or more future episodes or more persistent difficulties.⁹ It is widely recognised that heterogeneity is very common in mood and anxiety conditions¹⁰ and everyone's experience is therefore different and depends on a range of individual risk and protective factors, including access to appropriate support and treatment. Over the last two decades a large number of studies have been undertaken to map the epidemiology of particular mental health conditions to better understand their causes, likelihood, natural history and consequences. As a result, there is a substantial body of information that could be used by the insurance industry to guide their practices and policy development.

Treatment

Effective treatments are available for mental health conditions, such as depression and anxiety. Mental health treatment needs vary for each condition across a wide spectrum of illness severity. This ranges from easy-to-access information, self-help programs, peer support, brief interventions from a trained professional, online e-mental health programs or general practitioner care, right through to comprehensive multi-disciplinary care provided by acute and primary care providers, mental health specialists and psychosocial disability support agencies. **An individualised approach to assessment and treatment is required.**¹¹

It is important to note that the treatment a person receives is often dictated by affordability, availability and personal preference and is not necessarily a reflection of the 'severity' of a person's condition, nor the likelihood of recovery. For example, a referral to a psychiatrist may occur because a GP is unsure of the diagnosis or management, rather than because the person is seriously unwell.

Smartraveller website

This Department of Foreign Affairs and the Insurance Council of Australia *Australian Travel Insurance Behaviours Survey 2016* indicated that the Smartraveller website¹² is a regularly used tool, especially for those people who have purchased travel insurance. On top of the website being an important resource for traveler health and safety, the website is also important to inform travellers about travel insurance rights, responsibilities and coverage.

beyondblue commends the Smartraveller website information currently available for people with mental health conditions in preparation for and during their overseas travel. However, this mental health information needs to be prominently displayed and accessible on the homepage of the Smartraveller website under the 'Advice for Travellers' section.

At present, to find the mental health related information, a person needs to go to three different webpages to find the information and requires prior knowledge that this information even exists to persist in finding it. For the travel insurance information, it's a similar scenario but worse; consumers need to go to at least four different webpages to locate the information.

For people travelling with a mental health condition or a healthy person who has a mental health episode overseas, understanding their travel insurance policy is critical. If policy holders have a clear understanding of their travel insurance cover before embarking on their trip, this could benefit the Australian Government Consular Services when receiving mental health related enquiries or managing emergencies abroad. *beyondblue* recommends the development of 'mental health and overseas travel' section with a subsection describing 'mental health and travel insurance'. This section should contain information about disclosure, evidence for claiming, understanding product disclosure statements and identify insurers who provide travel insurance for people with a mental health condition and insurance that covers first mental health episodes.

Recommendations for Smartraveller website

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Mental health awareness and education

The recent *2015-16 Consular State of Play* report highlights the large volume of cases the consular service manages each year. Staff around the world also reported an increase in the number of mental health related cases however it also states that mental health issues can be a factor in almost all types of consular cases. For some cases, the client's mental health condition is the primary cause of the incident requiring consular assistance, while in others it may affect the person's ability to help themselves or makes them more vulnerable.

For the staff of the Department of Foreign Affairs and Trade working directly with the public, there are obvious, unique risks faced for which education and training can assist mitigate.

beyondblue acknowledges the Department's commitment to becoming an active participant in *beyondblue*'s Heads Up program and the positive progress made to date in the department's journey in creating a mentally healthy workplace.

beyondblue recommends as part of the department's current mental health strategy, that it provides staff throughout the employee lifecycle with the knowledge, skills and training to manage cases specifically relating to mental health or when managing the large number of cases where mental health is a factor. This may include mental health awareness training, mental health first aid training as well as ongoing evaluation of the department's mental health strategy.

Recommendation for mental health standard for all consular staff

4. Building on DFAT's commitment to be an active participant in *beyondblue*'s Heads Up program, staff should be appropriately trained and supported in their function; includes development and implementation of a mental health training standard as part of the Consular's existing occupational health, safety and wellbeing plan; *beyondblue* can provide information and advice on this.
5. Support consular staff and users of consular services by providing *beyondblue* resources within consular settings.
6. Start collecting data on the number of specific mental health related cases managed by consular staff each year; ideally this would be publicly reported.

Why do people with mental health conditions get an unfair deal on insurance?

Summary of key points

Difficulty in purchasing and claiming on travel insurance for people with a mental health condition appears to be a common problem.

It can take various forms including outright rejection of cover on dubious or undocumented grounds, unreasonable terms and conditions including inflated premiums, and unfair denial or processing of claims.

Policy wording commonly refers to symptoms (e.g. stress, insomnia) or risk factors (e.g. family history) as proxies for a diagnosed mental health condition. Insurers also have been known to attribute a mental health condition because someone has seen a counsellor or psychologist even if this contact was unrelated to a mental health condition (e.g. relationship counselling, career counselling).

Many people complain that dealing with the insurance industry is a battle which can be detrimental to their mental health, because of the stress and shame caused. The flow on effects of this can contribute to stigma which produces considerable harm at the individual, community and economic level.

While there are some protections offered by legislation and regulation, this appears insufficient to stop legal, but potentially unethical, behaviour that does not reflect contemporary knowledge and attitudes to mental health conditions and that has impacts on some of the more vulnerable members of society.

Aggrieved consumers can make complaints through a variety of mechanisms, however, the process is complex and the burden falls on individuals to invest considerable time, money and effort into pursuing a complaint.

Prevalence of insurance discrimination

Australians with a mental health conditions are entitled to fair and equitable access to insurance products, including travel insurance, to enable them to protect themselves and their families against financial stress and uncertainty. Although the Disability Discrimination Act (DDA) allows for discrimination in some circumstances, empirical evidence and anecdotal reports demonstrate that many people with a mental health condition experience significant difficulties in obtaining and claiming on insurance products compared to the rest of the population, and beyond that allowed for under the DDA.

In order to quantify the prevalence of these issues *beyondblue* and Mental Health Australia worked together to commission the *Mental Health, Discrimination and Insurance Survey of Consumer Experiences 2011*.¹³ The survey involved 424 people living with or supporting someone with a mental health condition. **Fifty per cent of the survey respondents either agreed or strongly agreed that it was difficult for them to obtain insurance due to a mental health condition.** Among those respondents who had applied for life and income protection insurance 80 per cent either agreed or strongly agreed that it was difficult for them to obtain insurance due to a mental health condition specifically in relation to these products.¹⁴

The recent survey results released by the Department of Foreign Affairs and the Insurance Council of Australia highlighted a widespread lack of knowledge about travel insurance by the 10 million overseas travellers each year. Ninety-two percent of survey respondents said they purchased travel insurance before embarking however only 84 percent were adequately covered by travel insurance as they had disclosed relevant medical issues. There was also an additional eight percent of respondents which equates to almost 850,000 travellers who do not purchase travel insurance at all.

In Australia, many travel insurance products include blanket mental health exclusion clauses. These blanket mental health exclusions are included in the policies regardless of the mental health status of the individual policy holder; even a healthy individual who experiences their first mental health episode cannot be covered when travelling.

For people with a mental health condition, purchasing travel insurance even at a higher premium, to cover their preexisting conditions is near impossible. However, what seems unjust, unfair and unethical is that insurance companies include mental health exclusions in travel insurance policies for healthy individuals with no prior mental health history.

Types of insurance discrimination

Insurance discrimination can take many forms. Since 2013, *beyondblue* and Mental Health Australia have encouraged Australians impacted by insurance discrimination to contact *beyondblue* to share their stories.¹⁵ Over this time, *beyondblue* has been contacted by several hundred people.

Purchasing insurance

The *Survey of Australians' Travel Insurance Behaviour 2016* highlighted areas of concern when a traveller is purchasing travel insurance. Most overseas travellers did not consider insurance features including exclusions (69 percent); insurers' reputation (66 percent); amount of excess paid (64 percent) and terms and conditions (60 percent). There was also limited understanding of what their travel insurance provided cover for, with 63 percent of all travellers identified as 'not confident' that they had purchased a policy that was right for their needs.

For the 27 percent of respondents who purchased travel insurance with a known pre-existing condition, 28 percent did not check their insurance policy coverage before travelling and 39 percent did check their policy but were not certain on their cover. Separately, 27 percent of respondents said they were either 'not covered' or 'not sure if they were covered' for medical expenses.

Policy Refusals

The *Mental Health, Insurance and Discrimination: A Survey of Consumer Experiences 2011* found that, across all insurance types including travel insurance, 22 per cent of respondents reported that their insurance application was declined due to a mental health condition.¹⁶

Outright refusal of coverage when travelling has a significant impact on an individual, as it leaves them unable to protect themselves and their families against uncertainty and financial stress during or after their overseas travel even if it is unrelated to a mental health condition. Some respondents stated they had been declined insurance because of a mental health condition that had occurred many years ago, and had been treated and/or resolved, yet was still taken into account.¹⁷

Policy exclusions

The *Mental Health, Insurance and Discrimination: A Survey of Consumer Experiences 2011* found that across all insurance types including travel insurance, 24 per cent of people received an insurance product with exclusions relating specifically to mental health conditions.¹⁸

While some change in terms and conditions may be reasonable for people who report an existing mental health condition, in many instances **people are offered policies with broad, blanket exclusions on claims relating to any mental health condition, even if unrelated to their specific condition.** This is akin to someone with a history of gastroesophageal reflux problems being excluded from cover for bowel cancer on the basis they are both gastrointestinal disorders.

While some people may experience more than one mental health condition at the same time or at another time in their life, this is definitely not invariable. The 2007 National Survey of Mental Health and Wellbeing found that only one in four people who had experienced a mental health condition in the past 12 months had experienced more than one class of mental disorder – 75 per cent had not. Not all mental illnesses are the same, and in most cases a more limited exclusion would be appropriate.

Of greater concern, mental health condition exclusions can sometimes be applied simply because a person reports symptoms that may or may not be associated with a mental health condition (e.g. stress, insomnia) or even risk factors for a mental health condition (e.g. family history) **despite the person not having been diagnosed with a mental health condition**. This approach would be akin to someone being given an exclusion for brain cancer on the basis of reporting a history of migraine headaches or a family history of migraine headaches.

Insurers also have been known to determine that a person has a mental health condition if they state they have seen a counsellor or psychologist even if this contact was unrelated to a mental health condition (e.g. relationship counselling, career counselling) or even if the psychologist/counsellor did not think the person had a mental health condition.

Paying increased premiums

The *Mental Health, Insurance and Discrimination: A Survey of Consumer Experiences 2011* found that across all insurance types including travel, 14 per cent of people received their insurance products with increased premiums because of their mental health condition.

beyondblue acknowledges the need for insurers to set premiums that reflect the level of risk that an individual presents to an insurer. However, the personal stories which are shared with *beyondblue* indicate that higher premiums are often unreasonable or at a level that makes the cost prohibitive for the person to take out insurance, leaving them uninsured as a result. *beyondblue* also regularly hears from people who have both a broad mental health exclusion, and increased premium loading applied to their policy.

Problems when making a claim

For travel insurance, the *Survey of Australians' Travel Insurance Behaviour 2016* reported concerning results in relation to claiming on a travel insurance policy. In the last trip, 24 percent of all travellers experienced a loss that they would be covered for by most travel insurance policies. However, only 54 percent of those policyholders made a claim, of which only 82 per cent were fully or partly paid. These findings strongly indicate a lack of understanding by the policy holder of their travel insurance product and how to make a claim against their policy.

Among the respondents in the *Mental Health, Insurance and Discrimination: A Survey of Consumer Experiences 2011* who had made a claim against their insurance, 41 per cent had their claim accepted without any problems, 13 per cent said they had problems getting their claim accepted and 12 per cent had their claim partly declined due to a history of a mental health condition.¹⁹ Of particular concern, some people described experiencing a **prolonged claims process that sometimes spanned a number of years**.

In some cases claims are declined because the mental health condition is considered to have been 'pre-existing', even when there was no evidence for this, while in other cases the reverse happens with other respondents stating they had their diagnosis questioned by the insurer or the specialist chosen by the insurer. Disputed claims and/or lengthy delays can be extremely stressful and in some case may exacerbate a person's mental health condition. Respondents in the *Survey of Consumer Experiences* spoke of the increased stress that the claims process inflicted, particularly the impact of prolonged processes with extensive evidence required.²⁰

Interactions with insurance providers

Consumer experiences that are reported to *beyondblue* suggest that dismissive and/or obstructive conduct within the insurance industry is common, and is particularly concerning given the negative impact that this can have on vulnerable people.

Some survey respondents indicated that insurance companies appeared to automatically categorise mental health conditions as high risk regardless of the person's individual circumstances especially for travel insurance. Several respondents mentioned the embarrassment, humiliation and insensitivity surrounding interactions with an insurance provider. Several also mentioned how their interactions with insurance providers have impacted negatively on their mental health.²¹

The flow on effects of these practices contribute to stigma, which produces considerable harm at the individual, community and economic level. While there are some protections offered by legislation and regulation, this appears insufficient to stop behaviour that is legal, but potentially unethical, and which does not reflect contemporary knowledge and attitudes to mental health conditions. This has impacts on some of the more vulnerable members of the community.

The impact of insurance discrimination

The negative impact of discrimination reaches further than the individuals who have directly experienced discrimination and can affect others even if people don't experience it personally. When people with a mental health condition hear about others' experiences of discrimination – whether in relation to insurance or other matters – they begin to anticipate discrimination and may stop themselves from doing things due to the unfavourable treatment and discrimination that they anticipate experiencing. **One of the major negative consequences of discrimination is that it may prevent people seeking treatment and support from a health professional for their mental health condition.**

While some insurance companies allow people with a mental health condition to purchase cover if they have not sought treatment for a given time period, this can actually serve as a disincentive for people to implement self-management and/or report mental health problems to a health professional and seek treatment. Policies and practices such as these conflict with the broad range of government policies which emphasise prevention and early treatment of mental health problems.

If people do seek treatment they may do so later than they otherwise would, potentially requiring more intensive psychotherapy and/or medication usage than would have been otherwise needed.

It could be argued therefore that insurance discrimination runs directly counter to the Australian Government's, and each State and Territories government's emphasis on and considerable investment in early intervention, stigma reduction and mental health promotion more broadly.

Complaints and dispute resolution

There are a number of avenues in which complaints and appeals of insurers' decisions can be made. Many complaints are resolved through conciliation. While conciliation processes provide an opportunity for satisfactory resolution for the individual, **most cases settle on a confidential basis without an admission of liability on the part of the insurer.** As a result, the opportunity to set firm legal precedents, or to influence longer-term practice change, has been considerably constrained.

The problem with the current approach is that the burden falls on individuals to invest considerable time, money and effort into pursuing a complaint. A complainant-driven process, as is articulated in the *Disability Discrimination Act 1992 (Cth)*, can inadvertently disadvantage complainants as the process is often considered complicated and intimidating to individuals. This places an unreasonable burden on ordinary people who have been or suspect that they have been unlawfully discriminated by an insurer. Pursuing a complaint is incredibly time consuming, and the costs of bringing proceedings in a Court or Tribunal are often prohibitive for an individual. Pursuing a complaint can also be very stressful and be detrimental to a person's mental health.

Many people have described to *beyondblue* that dealing with the insurance industry's internal dispute resolution processes as a battle. Case studies have also reported that it is rare that an insurer will overturn a decision already made. These case study reports are supported by the *recent Australian Securities Investment Commission REPORT 498* which found **only a two percent likelihood that a claim dispute will be resolved through the insurer's internal dispute resolution process**⁴⁸. Of particular concern, some people described experiencing a prolonged claims process that sometimes spanned a number of years.

Ella Ingram's recent case against QBE²² was the first test case heard by a court or tribunal in relation to insurance discrimination and mental illness in Australia. Ella Ingram's case was unique, in that she chose to pursue her dispute with QBE to hearing for the broader public benefit despite the toll of protracted litigation. It took almost four years for Ella to find out whether QBE's discrimination against her was

unlawful. In the time that it takes to pursue a complaint, an individual may be uninsured and unprotected, or suffer financially.

Ingram v QBE Insurance (Australia) Ltd (Human Rights) [2015] VCAT 1936

Ella Ingram, now 21 years old, was issued with a travel insurance policy by QBE for a school study trip to New York when she was 17. After commencing Year 12, prior to the departure of the school trip, Ella became unwell and was diagnosed by a psychiatrist with depression, and was subsequently voluntarily admitted to an adolescent psychiatric inpatient unit. This was the first time in her life that Ella had experienced depression. On doctors' advice, Ella decided she would be unable to go on the trip to New York, and then claimed under the policy for the cancellation costs of \$4292.

Ella's claim was refused by QBE, who relied on a general mental illness exclusion clause, which excluded coverage of any claims relating to mental illness. Ella Ingram challenged QBE's denial of the claim in the Victorian Civil and Administrative Tribunal (VCAT), and in December 2015 VCAT found in Ella's favour. VCAT found that QBE discriminated against Ella twice, firstly by issuing a policy which contained the mental illness exclusion clause, and secondly by refusing her claim based on that exclusion.

The Tribunal found that QBE did not produce sufficient evidence to prove that the discrimination was based on actuarial or statistical data. QBE accepted that it had no actuarial data on which to rely in respect of the inclusion of the mental illness exclusion in the policy. QBE also presented a range of prevalence data, however they also acknowledged that there was a 'paucity of evidence' to show that there was a link between the statistical data and the decision to include a general exclusion for mental illness in the travel insurance policy.²³

QBE was found by the Tribunal as not being able to produce sufficient evidence that it would have suffered an unjustifiable hardship by removing the mental illness exclusion clause. The Tribunal member noted that *"There is an absence of sufficient material for me to determine that it would be an unjustifiable hardship for QBE to be unable to rely on the mental illness exclusion. The scales weigh in favour of people like Ms Ingram being able to be properly assessed on their policy claims in the same way people with physical disabilities are assessed."*²⁴

Although the finding is limited to the circumstances of Ella's case, which concerns travel insurance, being the first test-case concerning insurance discrimination on the basis of mental illness in Australia, the case highlights critical issues in relation to broad, blanket mental health exclusions, and the importance of policy terms being informed by robust actuarial and statistical data and analysis.

Recommendations to improve travel insurance coverage for people with mental health conditions:

7. Advocate for insurance providers to remove blanket mental health exclusions in all travel insurance products as a priority, as these clauses treat all mental health conditions as the same and all people with a mental health condition as homogenous and high risk.
8. Support insurance providers to develop a travel insurance product that provides insurance cover for a person travelling overseas with an existing mental health condition; this will help to reduce the burden on consular services as this population group is currently travelling mostly uninsured.
9. Advocate for insurers to undertake individualised risk assessment of people who disclose a current or past mental health condition. Risk assessment needs to take into consideration individual circumstances that are likely to influence their risk profile, including the full range of relevant risk and protective factors that impact on outcomes.
10. Advocate for insurance companies to clearly communicate, more than just providing the Product Disclosure Statement to the policy holder, the exact level of insurance coverage provided based on personal circumstances disclosed especially when a policy holder has a pre-existing condition or the product contains a blanket mental health exclusion.

Conclusion

This submission outlines the significant challenges and issues that people with mental health conditions experience in accessing and claiming against travel insurance products in Australia, compared to the rest of the population. This includes outright refusal of coverage, increased premiums or excessive exclusions on placed on policies. Furthermore, many people with a mental health condition experience difficulties in claiming against their travel insurance policies or do not know they are eligible to claim for their loss through travel insurance.

The Australian Government Department of Foreign Affairs and Trade has an influential role to play within government, through advocacy, policy and regulation, to improve travel insurance coverage for people with mental health conditions. The Department is well placed to advocate for insurance providers to remove blanket mental health exclusions from travel policies as well as been able to work with insurers to develop and test an insurance product that provides coverage for people with mental health conditions.

For travellers who need to engage the consular services, implementing the recommendations to improve information about mental health and travel insurance on the website and training consular staff in mental health will have a positive effect for both the consumers using the consular services and the staff providing these services, it also has the potential to reduce the mental health burden on the Consulate services.

The issue of insurance discrimination among people with a mental health condition is a long-standing one, first highlighted in 1993 in the first National Inquiry into the Human Rights of People Living with a Mental Illness. Unfortunately, 23 years on, little has changed to improve access to insurance for people who live with a mental health condition. Although the law contains protections for people with a disability (including a mental health condition), practices appear to be skewed towards the interests of insurers, at the expense of the rights of insurance policy holders and applicants.

beyondblue is keen to work in collaboration with government on concrete actions to change this so that insurers do not unfairly discriminate on mental health grounds and apply sound, effective and proportionate judgement to individual insurance policy applications and claims.

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