17 July 2026

Andrew Hall
Executive Director and CEO
Insurance Council of Australia

CC: Yas Monfared – Senior Advisor, Regulatory and Consumer Policy

Dear Mr Hall,

Re: Consultation on a Redrafted General Insurance Code of Practice ('GICOP')

Thank you for the opportunity to provide feedback on the redrafted GICOP.

We were both involved in the joint consumer submission to the GICOP independent review. In addition, Dr Mulcahy authored the Victorian Pride Lobby's report, *Worth the Risk: LGBTIQA+ Experiences with Insurance Providers* ('*Worth the Risk*'), and Dr Mulcahy and Prof Seear co-authored an article for the *Insurance Law Journal*, 'Insurance discrimination and hepatitis C: Recent developments and the need for reforms'.

The *Worth the Risk* report identified that it may take a considerable amount of time and constant contact for a trans and gender diverse customer to update their name and gender with their insurer, with customers often having to submit copious documents and other information, often authenticated by a witness. The report recommended that processes for changing name and gender be made as simple and comprehensive and possible, that dead names or former genders or titles are removed from all records, that all systems are updated, and that insurers review their processes to ensure that a customer who is changing their name or gender need only speak to one customer service representative.

The redrafted GICOP includes a provision, at paragraph 14(b), that insurers will have processes in place to reduce barriers that customers may face in obtaining standard forms of identification, including customers from First Nations communities, non-English speaking backgrounds, and migrant communities.

In this regard, **we recommend that paragraph 14(b) of the redrafted GICOP be amended to insert an additional sub-clause '(iv) trans and gender diverse communities'.**

As you would be aware, the GICOP independent review recommended that the risk factors 'sexual orientation, gender identity and sex characteristics' be added the range of factors that contribute to a person's vulnerability. This recommendation responds to the *Worth the Risk* report, which found that LGBTIQA+ inclusion is not effectively met by insurer practices and commitments, and was suggested by the Insurance Council.

The initial industry response to the independent review agreed with this recommendation, noting that a suitable and workable definition of vulnerability will be drafted for consultation. Unfortunately, as noted in recent media coverage, the definition of vulnerability in the redrafted GICOP does not include sexual orientation, gender identity, and sex characteristics. Furthermore, it excludes some factors in the current GICOP.

In this regard, **we recommend that the definition of vulnerability in the redrafted GICOP be amended to insert a new subclause '(e) Personal, cultural, or social characteristics – age (very old or young), disability, diverse cultural background, remote location, diverse sexual orientation, gender identity or sex characteristics'.**

<u>Without this, the redrafted GICOP would not meet the recommendation from the independent review agreed to by the Insurance Council considering the findings in the *Worth the Risk* report, and it would therefore fail to improve insurance practices for LGBTIQA+ customers.</u>

The independent review also recommended that the GICOP should be updated to require insurers, in questionnaires and application forms, to only collect information that is necessary to assess and insure the risk presented by the customer and ensure sensitivity and avoid stigmatisation.

As the initial report of the independent review noted, these recommendations respond to submissions to the review that some insurers ask questions that: may not be inclusive when it comes to sex, gender, and sex characteristics, for example, not providing non-binary options for gender and titles; demand unreasonably extensive information about health conditions, such as hepatitis C; and are posed in a manner that lacks compassion, which may lead to stigmatisation.

In its response to the independent review, the Insurance Council agreed with these recommendations, noting that the GICOP already requires that insurers will only ask for and rely on information and documents that are relevant to a decision on whether to insure the risk and that it will work with members to develop an industry wide understanding of vulnerability.

As we indicated to you in our letter of 11 June 2025, this response is lacking. The GICOP enables insurers to collect information 'only if [it is] relevant to our decision'. The recommendation suggests that this be only if it is 'necessary'. Necessary is a higher threshold than relevant. In line with the recommendation, we are concerned to ensure that information, particularly sensitive information, is only collected where necessary.

In this regard, **we recommend that paragraph 36 of the redrafted GICOP be amended to replace 'relevant to' with 'necessary for'.**

Furthermore, the redrafted GICOP includes a provision, at paragraph 148, that insurers will have internal policies and employee training to engage with customers with sensitivity, dignity, respect, and compassion. However, it does not include internal policies and employee training to avoid stigmatisation.

As the initial report of the independent review noted, customers, particularly those who may be in vulnerable circumstances, can experience stigmatisation due to, *inter alia*, insensitive questioning. It is therefore important that the specific issue of stigmatisation be addressed in internal policies and employee training.

In this regard, **we recommend that paragraph 148 of the redrafted GICOP be amended to insert an additional subclause '(h) avoid stigmatisation.'**

The independent review also recommended that the GICOP should stipulate that education and training include dealing with customers experiencing vulnerability. In its response to the independent review, the Insurance Council agreed with this recommendation in principle and stated that it would consider appropriate revisions to the GICOP to set out the principles for how to approach education and training.

The redrafted GICOP includes a provision, at paragraph 187(c), for employee education and training on identifying and supporting customers who require extra care or are experiencing financial hardship. This should be expanded to customers who are experiencing vulnerability.

In this regard, **we recommend that paragraph 187(c) of the redrafted GICOP be amended to insert 'or Vulnerability'.**

Finally, another issue has emerged since the independent review. The Council of Australian Life Insurers has updated the Life Insurance Code of Practice to include additional requirements around HIV, requiring insurers to 'publish whether our on-sale products have exclusions for HIV'.

The Insurance Council should do the same in its redrafted GICOP. As far back as 1992, the then NSW Anti-Discrimination Board recommended in its landmark report into HIV/AIDS-related discrimination, *Discrimination – The Other Epidemic*, that the GICOP should include guidance on HIV and HIV exclusion clauses. More recently, the *Worth the Risk* report found that travel insurers need to be clear on coverage for people living with HIV.

In this regard, **we recommend that the drafted GICOP include an additional part in Section 7 – 'Taking Extra Care with customers experiencing Vulnerability' – to be headed 'Human Immunodeficiency Virus (HIV)' with the following paragraphs:**

- **When you disclose to us that you are living with HIV, we will treat this like any other medical condition in determining the cover we offer. We may ask you for more information about your condition and treatment plan as part of our underwriting consideration. Any questions asked will be done in a sensitive manner.**
- **If we offer you less favourable coverage due to your HIV (e.g. additional loadings or reduced benefits), we will comply with our obligations under anti-discrimination laws in doing so, including considering your individual risk profile and relying on relevant actuarial and statistical data, where available.**
- **We will publish on our website whether our products have exclusions for HIV.**

Finally, we welcome the reforms in the redrafted GICOP, at paragraph 131, to require insurers to make information available about their internal complaints process and the external AFCA complaints process on their website and in policies.

We strongly believe that these recommendations, which we offer in a spirit of driving meaningful change and action, will ensure that the GICOP better protects vulnerable customers, upholds their human rights, and prevents stigmatisation.

Kind regards,

Dr Sean Mulcahy
Research Fellow
Australian Research Centre in Sex, Health and Society
Email: [redacted] / Phone: [redacted]

Prof Kate Seear
Professor
Deakin Law School, Deakin University
Email: [redacted]

CC

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

Assoc Prof David Carter
Associate Professor
Faculty of Law and Justice, University of New South Wales

Liam Ephick
Lecturer
Faculty of Law, Monash University

Vikas Parwani
Principal Solicitor
HIV/AIDS Legal Centre

Bethany Rodgers
Strategic Policy Lawyer
HIV/AIDS Legal Centre