

Graeme Innes
Australian Human Rights Commission
Level 8, Piccadilly Tower
133 Castlereagh Street
SYDNEY NSW 2000
GPO Box 5218
SYDNEY NSW 2001



PositiveLifeNSW

FUNDED BY NSW MINISTRY OF HEALTH

STREET Suite 5.2, Level 5, 414 Elizabeth St Surry Hills NSW 2010
POSTAL PO Box 831 Darlinghurst NSW 1300 ABN 42 907 908 942
SWITCH +61 2 9206 2177 FREECALL 1800 245 677 FAX +61 2 9211 5672

25 October 2012

Dear Graeme,

Insurance and HIV

Positive Life NSW with the support of the National Association of People Living with HIV/AIDS, the Australian Federation of AIDS Organisations, and the HIV/AIDS Legal Centre, is leading an advocacy process to improve access to life insurance products for people with HIV in Australia.

Positive Life NSW is the peak not-for-profit community organisation in New South Wales representing the voice of people with HIV. The organisation promotes a positive image of people living with and affected by HIV by eliminating prejudice, isolation, stigma and discrimination. Positive Life NSW provides information and targeted referrals, and advocates for changing systems and practices that discriminate against people with HIV, their friends, family and carers in NSW.

Life Insurance cover for people with HIV has routinely been declined since the early 1980s. The Disability Discrimination Act 1992 (Cth) prevents discrimination on the grounds of disability in the provision of goods and services. This covers the refusal of and/or provision of life insurance cover to people with HIV. Although the Act provides for general exemptions for superannuation and insurance providers - specifically where the insurer can prove that the refusal (or unfavourable terms of cover) are based on actuarial data which it is reasonable for the insurance provider to rely upon (see s46 of the Act) - the Act also imposes a duty on the discriminating party (in this case the insurer) to provide any person with a disability with *reasonable adjustments*. Despite this provision, people with HIV continue to be declined life insurance and income protection insurance in Australia.

The introduction of highly effective anti-retroviral therapy (HAART) in 1996 has increasingly permitted people with HIV to control viral replication, achieve immune reconstruction and regain health. In 2012 HIV is regarded as a chronic manageable disease. People with HIV who are successfully treated with HAART can now expect a life span similar to their HIV-negative counterparts. Like people without HIV infection, they will require access to a range of life insurance products (mortgage protection, income protection and life insurance) to effectively manage their finances.

Large international studies have shown a continued decline in the risk of death amongst people with HIV since effective HIV treatment became available in 1996. The changed health reality for people with HIV has resulted in the majority of people with HIV in employment (>70%¹). In December 2010 there were approximately 21,391² people with HIV in Australia. New South Wales is the state with the highest proportion of people living with HIV, with 9,924³ (2010). Although the number of people is a small potential total market share, Positive Life NSW seeks equitable access to life insurance for people with HIV in NSW and throughout Australia.

We are hopeful that a meeting supported by the Australian Human Rights Commission with the Financial Services Council and representatives from Positive Life NSW, the National Association of People Living with HIV/AIDS, the HIV/AIDS Legal Centre and the Australian Federation of AIDS Organisations, can begin a dialogue to improve understanding by Australian life insurers about the changed health reality of people with HIV and their need to access life insurance products.

If you require any further information in relation to this matter, please contact Lance Feeney, Advocacy and Policy, Positive Life NSW on, (02) 9206 2174 or email lancef@positivelife.org.au to progress this matter.

Yours sincerely



Sonny Williams
CEO
Positive Life NSW

¹ Sydney Gay Community Periodic Survey 2007, specific employment data for people with HIV requested by Positive Life NSW

² National centre in HIV Epidemiology and Clinical Research, Australian Annual Surveillance Report 2008

³ Mapping HIV Outcomes: geographical and clinical forecasts of numbers of people living with HIV in Australia, 2010.