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Australian Sports Commission

Insurance Report

 **ERNST & YOUNG**
Quality In Everything We Do

Contents

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Appendix

QUESTIONNAIRE TEMPLATE

Executive Summary (including recommendations)

The Australian Sports Commission (ASC) commissioned Ernst & Young to conduct an insurance review of the National Sporting Organisations (NSOs) and National Sporting Organisations for people with a disability (NSODs) which are funded by the ASC. The review delved further into the insurance position for the NSOs and NSODs than research previously conducted by the ASC and aimed to provide a summary of the current position of the sports in relation to arranging insurance, their experiences as well as commentary on the current and proposed legal framework in each jurisdiction and factors to be considered in respect of a group buying / pooling scheme.

Overall we found that generally the sports were poorly informed as to their insurances, levels of cover, exclusions etc. with many relying on their brokers to determine the appropriate level of cover. Whilst all sports have public liability cover only 69% of NSOs have personal accident injury cover. As was expected a significant number of organisations raised concerns as to the increasing costs of coverage, although in all cases the sports had opted for increased premiums rather than increased excesses which could result in financial viability issues if a number of claims were made. It is particularly concerning to find that 43% of sports noted that their policies included a clause in relation to an exclusion for sports participation risk and 27% of policies excluded member to member liability (with a further 28% unable to determine whether it is included or not).

The experiences noted by the sports are one of significant premium increases, often more than the average for all industries. It is believed that this is due to the industry being seen by insurers as high risk, low return. Forecast increases in excess of 20% are also forecast for all industries in 2003.

Whether organisations packaged their insurances or arranged them on a national basis does not appear to significantly affect their experiences. Overall the results noted that packaged insurances and national schemes had suffered lower increases than stand alone insurances and national office only policies, however two sports in particular had very high increases which has significantly affected the averages. When these are removed from the sample, there is no noticeable difference between increases based on how the insurances are arranged.

Extensive claims information proved difficult to obtain. However it was noted that the number of organisations making claims had risen dramatically over the last five years whilst the total number of claims did not appear to have also risen.

This report includes a summary of the current and proposed legislative changes by state and territory. If all of these are enacted then it is expected that there will be a reduction in both the incidence and quantum of liability claims. This should in the medium to longer term help keep premium increases down and hopefully install more confidence in the market thereby increasing (or at least maintaining) the number of active insurance companies in the market place. The legislation should also provide some degree of comfort for volunteers and whilst this is not expected to impact on the premiums it should ensure that volunteers remain within the sporting community. However legislative changes alone will not solve the current crisis for sporting organisations.

Most sports noted that they would be willing to consider a group buying or pooling scheme. A pooling scheme may have advantages for smaller sports in that by increasing the number of insured organisations, distortions get less likely. However it should be noted that once this has been achieved there would, in theory, be no benefit of additional members as the overall incident rate does not change.

A self-managed mutual fund would allow the sports to have ownership of the program and control over benefits and claims management however traditional insurance would also be required for when claims reached a certain level and in order for the premium pool to be of a sufficient size a number of sports would need to enter such a scheme. There are many steps, however, prior to establishing such a scheme. The first is the collection of detailed data in relation to claims. This should be done over a three year time period and be linked to any improvements in risk management. Following the collation of the data it would need to be actuarially evaluated to establish whether such a scheme would be viable. If it proved to be viable then there would be significant set up costs in respect of infrastructure, including the selection of an outside administrator. It should also be noted that such schemes have the potential to make significant losses which it is assumed the sports would need to fund, although as not for profit organisations most do not have significant reserves to fund any losses.

The single biggest initiative that the sports can adopt to reduce their premiums is to have an effective risk management program (including policies to mitigate risk) throughout all levels of their sport. Only 31% of the NSOs indicated that they have a documented risk management program in place and of those only 44% extended across all levels of the sport. The sports need to collect data to be able to evaluate if the risk management programs are working and then present the findings to the insurance companies. Whilst a significant number of organisations commented that they were considering a risk management program the main obstacles noted were lack of time and expertise.

Based on the findings from this review we make the following suggestions and recommendations for the ASC:

1. To encourage the sports to take a more active interest and hands-on approach to insurance requirements rather than assuming that their brokers are adequately dealing with it;
2. To prepare guidelines as to what insurances and terms of policies the sports should have (eg a checklist to ensure that 'member to member' liability is included) and to provide training and education in respect of insurance issues. This will require significant education of the sports, including down to the operating level that arranges its own insurance;
3. To encourage better communication with the insurance companies. This will help the insurance companies to better understand the sports industry and to help dispel any unfounded beliefs that it is a high risk industry. In addition the progress made on risk management can be communicated and information sought from the insurers as to what they require in order to assist with the reduction in premiums;
4. Provide a source of expertise to encourage effective risk management programs on a whole of sport approach. As the claims are incurred at the local club level the risk management programs also need to be focused at this level. This results in resource and time issues. In particular at the local level where many of the processes are performed by volunteers. Any risk management programs have to be able to be implemented by these people. One way forward may be to pilot risk management programs and develop standards within a few sports.
5. Develop a process in consultation with sports and insurance industries and develop a template to collate detailed injury and claims data for all sports that can then be actuarially analysed to determine whether a self-managed mutual fund is feasible. Currently no reliable information in respect of claims history exists and as such it is not possible to determine whether mutual funds would be beneficial. The records need to contain details of all injuries and claims including conditions leading to the claim and the ultimate outcome; and
6. To ensure that all levels of organisations within the sport have appropriate insurance cover NSOs are encouraged to consider the use of national schemes. In addition, greater consideration of a group deductible or excess may assist with keeping premium increases down.

Background

Ernst & Young and its business partner, IEA Sport, was commissioned by the Australian Sports Commission (ASC) to conduct an insurance review of the National Sporting Organisations (NSOs) and National Sporting Organisations for people with a disability (NSODs) which are funded by the ASC.

The ASC is the agency of the Federal Government responsible for the development and administration of the Government's sports policy, and the subsequent funding and national development of sport. The role of the ASC is to provide national leadership in all facets of sport, by coordinating with other governments and the wider community. The ASC supports a wide range of programs designed to develop sporting excellence and increase participation in sports activities by all Australians.

It has been widely documented that there is an insurance crisis affecting many industries with possible reasons and effects being discussed. This crisis has affected sporting organisations from the NSOs down to the local clubs through an inability to obtain insurance cover, increased premiums, impractical excess amounts and other such factors.

Prior to this report a number of reviews into the insurance crisis affecting sports have been performed. In particular, the Standing Committee on Recreation and Sport (SCORS) which comprises representatives from Commonwealth and State / Territory agencies responsible for sport and recreation engaged Rigby Cooke Lawyers to complete a Review into Australian Sports Insurance. This review noted a number of options to consider to address the impact of rising insurance premiums including, education, formalised risk management, pooling schemes, self insurance and the development of specific sports insurance schemes. The review was considered by SCORS at its March 2002 meeting when it established a Working Group on Insurance to consider a number of matters arising from the review.

The ASC completed a telephone survey of NSOs in May 2002. This survey asked whether the NSO had a national public liability insurance policy, national approach to risk management and what issues were being faced by the organisation at the national level. Following the completion of the survey the ASC expressed some concern as to the validity of the data due to inconsistent knowledge about insurance within sports.

Through the participation in the SCORS Working Group on Insurance, the ASC is examining the feasibility of NSOs implementing self insurance, national group purchasing or pooling schemes in order to reduce the current insurance problems facing sport.

This consultancy undertook research to provide information in respect of the NSOs and NSODs funded by the ASC in 2002/3 in respect of the following types of insurance:

- Public liability;
- Professional indemnity;
- Directors and officers; and
- Personal accident and injury.

The terms of reference for the consultancy required that:

1. For each sport, document the current approach to insurance (eg level, coverage and excess) and risk management in each of the above four categories. In particular, explain how such insurance and risk management is handled at the national, state, regional (if applicable) and club level.
2. For each sport, document the problems being experienced at each level in the federal sports hierarchy in obtaining and/or maintaining satisfactory insurance cover. Provide statistics (eg. percentage and absolute increases in premiums) as well as anecdotal evidence. Ensure that the data provided on problems shows clear links to the particular insurance arrangement, the level within the sports hierarchy and jurisdiction.
3. Describe the current and proposed legal framework in each jurisdiction and the State group buying schemes that have applicability to sport, taking account of the current proposals to implement recommendations arising from the Commonwealth/State Ministerial Meetings on Public Liability.
4. Identify and document the factors that an NSO would need to consider before entering into a group buying/pooling scheme either individually or with other sports.
5. Identify whether it is feasible for NSOs either individually or together to enter into group buying/pooling arrangements in light of current and future national and State legislation, state-based not-for-profit group buying schemes and current insurance industry developments such as increases in excess levels. If feasible, will NSO's either individually or collectively, or sport as a whole, be able to make an impact on the availability and price of insurance in the short and long term by entering into group buying/pooling arrangements.

The first two requirements are covered in the section titled 'Detailed Summary of Results' the third requirement is covered in the section titled 'Summary of Current and Proposed Legal Frameworks in each Jurisdiction' and the penultimate and final requirements are considered in the section titled 'Factors to be Considered in Respect of a Group Buying / Pooling Scheme'.

Methodology Adopted

This review delves further into the findings of the SCORS review, seeking to confirm NSO coverage, and of course gaps in insurance coverage and issues as well as considering options for future insurance purchasing schemes that will significantly benefit NSOs in terms of price, coverage and accessibility. For each sport the current approach to insurance for the categories of insurance and risk management was documented as well as the problems being experienced. Whilst the focus was on the NSOs it was also important to understand the approach across all levels of sport and as such feedback was also sought from State Sporting Organisations (SSOs) and regional and club levels.

The methodology adopted was centred around making it as easy as possible for the sports to be able to provide the necessary information. A letter was prepared for the sports to send to their insurance companies to request certain information which would be required. A comprehensive survey instrument was then developed, including instructions and definitions, for completion by the sports. A series of telephone or face to face meetings were then held with the sports following a review of the returned information to ensure that any anomalies or gaps could be resolved wherever possible and to confirm the information.

Following confirmation of the information received from the sports, analysis was then performed. This looked for trends within the information supplied and to compare the results as reported by the sports to other available information. Research was also performed into the legislative changes in each jurisdiction and discussions were held with other brokers to confirm whether our findings would be in line with their expectations and to ask them to provide appropriate comments or confirmations as thought appropriate.

Survey Instrument

A comprehensive survey instrument in the form of a questionnaire was developed. This covered the following areas:

Background

The background details collated covered whether the organisation was national, state or local, who was completing the information, the number of employees and the number of registered members.

Basis of current sports insurance arrangements

This section covered which of the four areas of insurance under review the organisation had, how the policies were arranged, how the premiums were paid, what is covered by the policies, any problems encountered in arranging the policies and premium increases.

Details of sum insured

Details were obtained in this section of the sums insured, excesses applying and any exclusions or condition changes to each of the four types of insurance for the last three years.

History of claims

This section sought to obtain the history of claims for the organisation by type of insurance for the last five years.

Risk management processes

The sports were asked to comment on their current risk management processes, including at which levels of the sport they are documented, whether it is part of an employees job description, levels of record keeping of incidents and other factors surrounding risk management.

Other types of insurance

Other types of insurance were asked for as well as general experiences in recent years to enable all forms of insurance to be considered.

Group pooling scheme

Sports were asked whether they would consider being part of a group pooling system.

A copy of the questionnaire template is included as an appendix to this report.

Overall Summary of Results

Response rate

The following table demonstrates the response rate obtained from the questionnaires:

| | To be surveyed | Questionnaires sent | Questionnaires returned | % response rate |
|--------------|----------------|---------------------|-------------------------|-----------------|
| NSO | 78 | 77 | 57 | 74% |
| SSO | 50 | 50 | 12 | 24% |
| Local | 20 | 5 | 0 | 0% |
| Total | 148 | 132 | 69 | 52% |

Of the NSOs 1 was not sent the questionnaire because it was combining with another NSO.

Of the NSOs 4 refused to complete the questionnaire on the grounds that it was irrelevant or on the advice of their brokers/legal advisors.

For the locals, the SSOs were requested to supply details of a local club to be sent a questionnaire. A number of SSOs claimed that the local was covered by their questionnaire as part of a national or state based scheme and other SSOs did not provide the details of a local club.

The response rate of 73% of all NSOs (and 74% of those sent a questionnaire) is relatively high for such a survey, although given the insurance crisis in sport it would be expected to be high. The low response rate for the SSOs and the lack of responses at the club level is disappointing. This can be partly attributed to the fact that many of these organisations assume that the insurance responsibility for the sport lies with the NSO and the lack of people resources to complete the questionnaire.

It should be appreciated when reviewing the results that the questionnaires represent the sports understanding of their situation at a point in time (and as noted in this report the general finding is that most sports have a poor understanding) and whilst the organisations were asked to provide information for several years they are on different cycles in terms of

renewal dates etc. For many organisations additional information has been requested to clarify or confirm information provided or to complete missing information. Where these have not been received that organisation has been excluded from that particular analysis of information.

High level comments received from sports

Several recurring comments were received from the sports relating to the survey. These included the following:

- Survey made them realise how complex the insurances were;
- That they had little knowledge of exactly what coverage the sport did and did not have because insurance matters were left to the broker;
- They have not taken the risk of increased excesses to reduce premiums but have suffered increased premiums;
- Difficulty in obtaining coverage (including inability to increase coverage) due to reduction in number of insurance companies willing to include sporting organisations;
- Some insurances calculated on a per member basis but when membership falls do not receive a reduction / refund of premiums;
- Some sports were expected to cover things outside of their control (eg can be liable of accidents on grounds which are hired even though they have no control over state or maintenance of facilities); and
- Lack of time and resources to review insurances and to look at risk management processes.

High level results

The following summarises the high level issues found as a result of the project:

- The insurance industry as it relates to sporting bodies is in some disarray with a number of insurance companies removing themselves from the market place (either through choice as they perceive the sports industry to be high risk and low return or through the demise of the insurance company such as HIH). In addition insurance companies are no longer making returns from investments and as such are having to rely on profits from insurance. There is an argument that sports have underpaid for their insurances in the past and the large increases being noted are more of a catch up to reflect the insurers experiences.
- Sporting organisations generally have very limited or no insurance expertise and rely very heavily on their brokers. As such the majority had difficulty in completing the questionnaire.

- In some cases brokers appear to be chosen by sports for personal relationships or ‘sponsorship’ in the form of reduced brokerage commissions and not for the brokers expertise. From discussions with brokers and sports it also appears that on the whole sporting bodies change their brokers more frequently than organisations in other industries making it hard to build up long term claims histories and risk management practices.
- The above points demonstrate that the sports are generally very cost focused and rely heavily on their brokers (which in turn are chosen because of price sensitivities). This can lead to inappropriate insurance coverage and where overseas insurance companies are used, the question of whether those companies meet the APRA requirements has been raised. The selection and understanding of insurance policies should be part of risk management practice and the findings in the report further highlight the need for improved risk management programs.
- It would usually be expected that the premiums charged relate to the claims history of the sport which in turn is partly derived by the risk management practices employed. We found little evidence of such a correlation. Brokers consulted as part of this project were not surprised by the lack of correlation or predictability in premiums and commented that it was often impossible to justify some of the decisions being taken in the industry at present.
- Sports appear to have suffered greater increases in premiums than the average for all industries and are not expected to be exempt from forecast increases of over 20% for all industries this coming year.
- The current legislation should have the effect of reducing the number of small claims and limiting the size of payouts. As such most brokers and actuarial advisors expect that premiums will ultimately decrease although this will take a number of years to filter through. The legislation in respect of volunteers is not expected to necessarily reduce claims or have an effect on premiums but should ensure that volunteers feel safeguarded.
- Whilst we found little evidence of significantly better experiences under a national scheme the brokers we talked to commented that it makes it easier for an insurance company to provide national cover as they are only writing one policy and not hundreds (and as such have lower costs). Sports could also benefit by having one excess or deductible across the whole policy which is then shared. In addition the NSO can ensure that all organisations within the sport have appropriate cover.
- Overall the sports raised the lack of resources as one of the key barriers to better understanding insurance and implementing risk

management programs. Whilst the education of the sports is vital the implementation of better risk management programs is critical to bringing down premiums. This is likely to require significant resources; and

- The sports generally have little information in respect of claims history. Without such details it is not possible to look at alternatives such as self managed mutual funds.

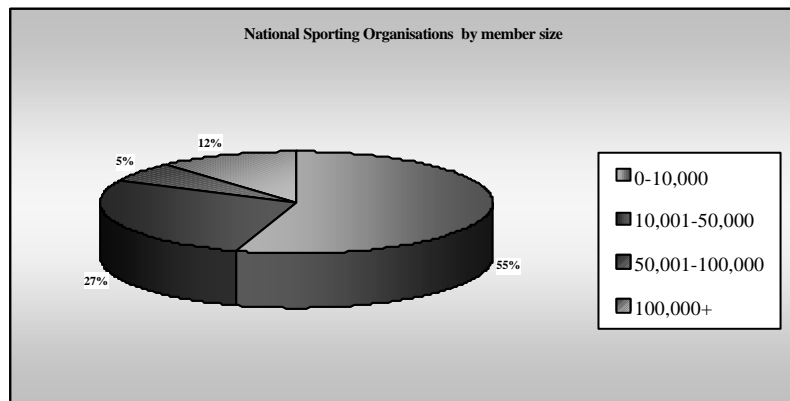
Detailed summary of results

Background

Given the sample sizes the majority of the analysis has been performed at the NSO level, however comments have been made regarding the SSOs where appropriate. Graphs and tables demonstrate the results of the NSOs only unless they specifically include SSOs.

The people interviewed by Ernst & Young were those nominated by the organisations as being the most appropriate in respect of insurance experiences. For 74% of organisations this was someone at the CEO or Director level, a further 25% were finance manager, operations manager or office manager. For one organisation the questionnaire was completed by their broker. It was noted that many organisations had difficulty in answering questions and this was largely due to a lack of detailed insurance knowledge. Most organisations commenting that they left the details to their broker and were not heavily involved in ensuring they had sufficient or appropriate cover themselves.

For comparison and analysis purposes we have split the NSO sample by size of organisation in terms of number of registered members. As can be seen on the graph below over half of the respondents have less than 10,000 members. The NSOs generally fall into this category.



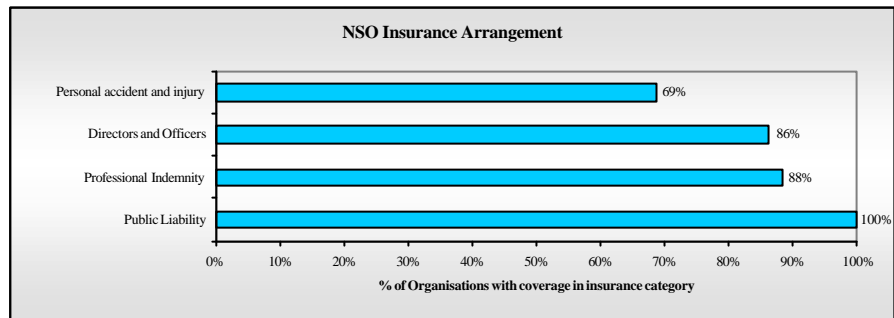
From the information provided 53% of organisations experienced an increase in memberships over the three year period, 35% noted a decrease and 12% recorded no change. Generally the changes were fairly minor and all were below 10% over the period. None of the changes affected the classification in respect of the size of the organisation for analysis purposes.

Organisations were also asked to provide details of employee numbers. As expected the number of employees is proportional to the number of participating members, however this is an exponential relationship. Organisations with less than 10,000 members usually have 1-5 staff members.

For analytical purposes the number of members was used as the more appropriate method of classifying organisations. For SSOs due to the smaller sample size the results have not been broken down by membership numbers or any other category.

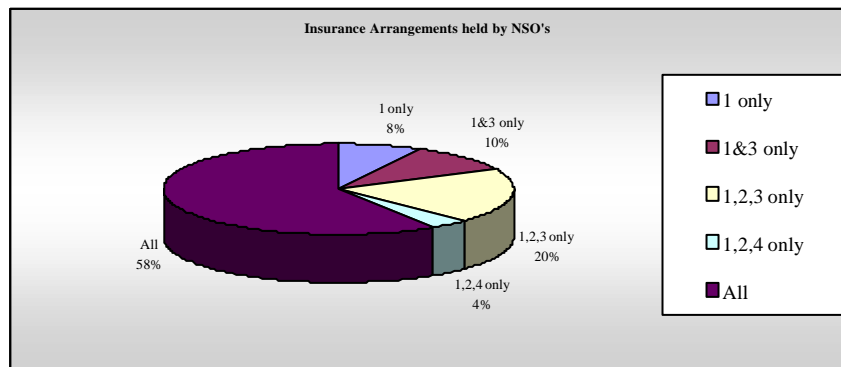
Basis of current sports insurance arrangements

All of the NSOs carry public liability insurance whilst only 69% have personal accident and injury insurance. The total for NSOs is as follows:



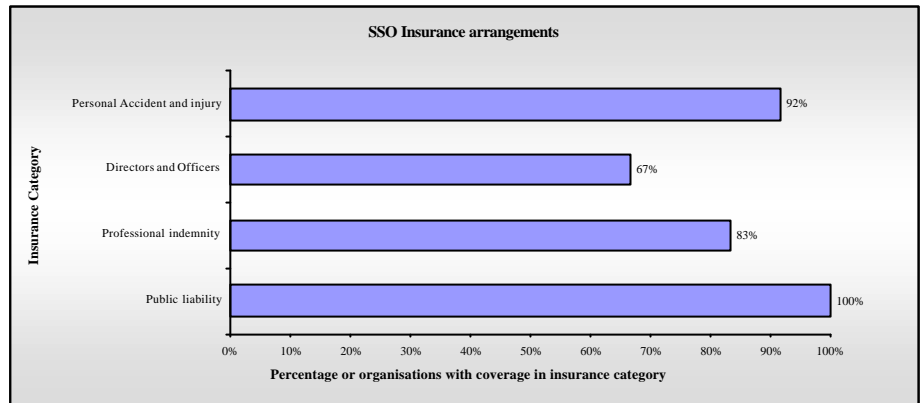
Overall 42% of NSOs do not have one of the four types of insurance reviewed. Generally it is the smaller organisations which do not have full cover with 60% of organisations with less than 10,000 members not having personal accident injury insurance and 18% of them not having Directors and Officers insurance.

The following graph demonstrates the percentage of organisations holding different combinations of insurance. As can be seen some 8% hold only public liability insurance with 58% holding all four types of insurance.



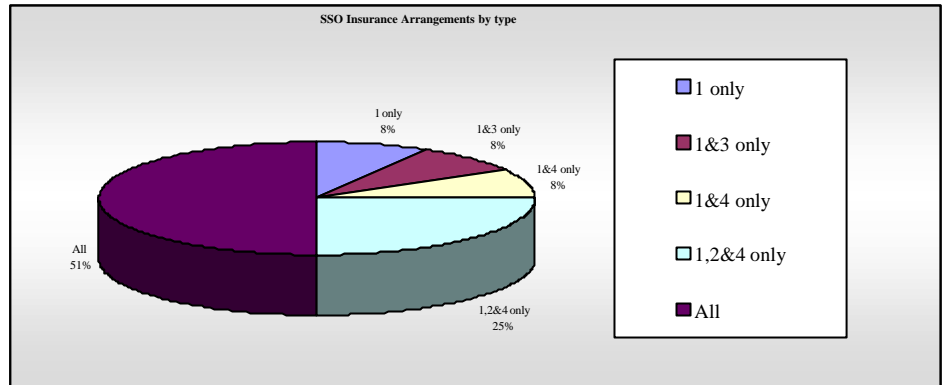
- Where: 1 – Public liability insurance
 2 – Professional indemnity insurance
 3 – Directors and Officers insurance
 4 – Personal accident and injury insurance

The following represents the coverage of the SSOs



As noted above only 12 SSOs returned completed surveys. As such the sample size is small and may not truly be representative of all the SSOs. This needs to be considered when reviewing the statistics produced from the analysis of the completed surveys. For example all of the returned surveys noted that the SSO held public liability cover and as such the above graph shows 100% coverage. However we have been advised that this is not the case and that in fact there are SSOs which do not hold such coverage.

As can be seen, again all organisations have public liability coverage (see above comment) and the lowest level of coverage is for Directors and Officers. For this category of insurance a number of organisations noted having problems in obtaining coverage. The following graph shows the percentage of State organisations holding each combination of coverage:



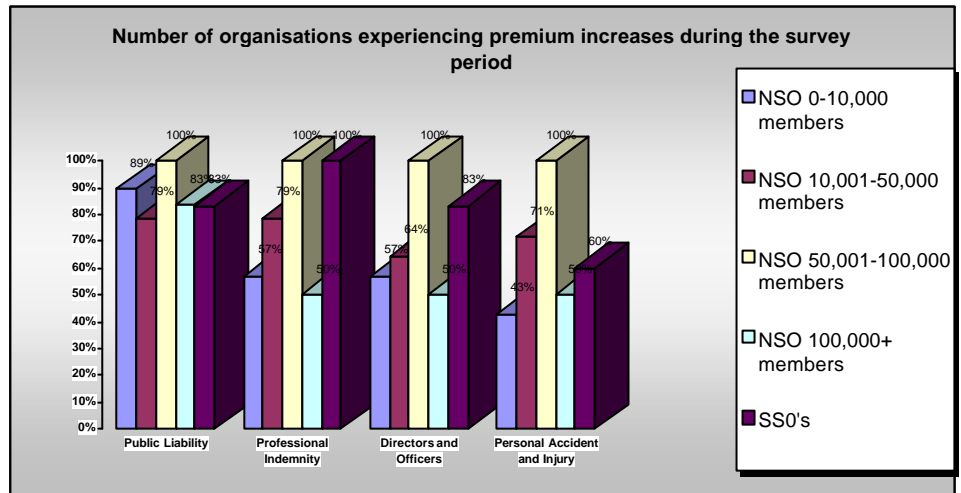
Where: 1 – Public liability insurance
 2 – Professional indemnity insurance
 3 – Directors and Officers insurance
 4 – Personal accident and injury insurance

Overall approximately 25% of all respondents (NSOs & SSOs) noted problems when arranging their current insurance policies. The main difficulties noted included:

- Only being able to get Directors and Officers Insurance at a National Level and not for the States. It is noted that for the particular sport that made this comment the response received from their State body was that they do not have any D&O insurance but do have coverage in the other categories. Other sports also made reference to the difficulty of obtaining D&O insurance on a whole of sport approach. From the replies received from the SSOs we noted that 7 provided their own Directors and Officers coverage, only 1 is covered by a national scheme (which was confirmed by the NSO) and 1 stated all coverage was at the local club level, 2 had no coverage and 1 was currently trying to obtain coverage (but had no previous coverage).
- Difficulties in finding an insurer (usually through a broker) willing to increase the professional indemnity cover (and ultimately the cover was not increased). This was reinforced by the lack of options in respect of the number of insurers with the result being an increase in premiums and a reduction in cover. Such difficulties increased due to loss of insurers in the marketplace.
- General increase in premium costs to keep current levels of cover.
- Public liability insurance not covering the US and Canada.
- Policy interpretation particularly in respect of the difficulty in interpreting the use of 'licensed person' in the policy. Other

organisations commented that they did not fully understand the wording of their policies or what was included or excluded.

In relation to premium increases a number of organisations were reluctant to give specific details due to confidentiality agreements within their policies or on the advice of their brokers, however from discussions we were able to determine the number of organisations that experienced increases during the survey period (three years of information was requested allowing increases over two periods to be obtained) as follows:



This analysis only includes those organisations having that particular type of insurance and where we were able to deduce whether the premiums had changed.

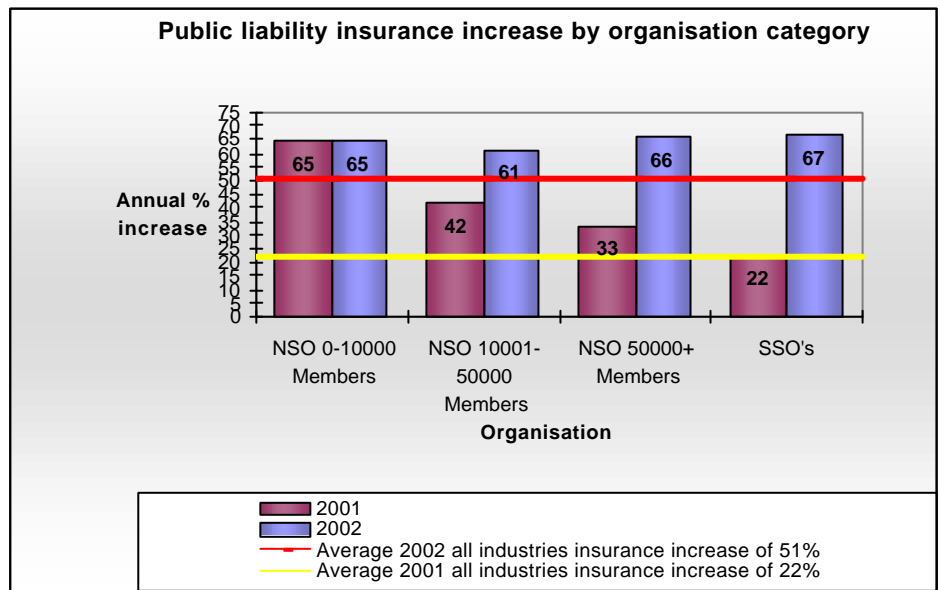
As can be seen the majority of organisations have suffered an increase in premiums for each of the four types of insurances surveyed. Public liability being the area in which most organisations experienced increases with over three quarters of all organisations recording an increase in the last year.

Public Liability Insurance

Public liability insurance indemnifies the insured against legal liability incurred due to negligence that results in death, injury or damage to property of a third party. An example of a claim under this policy would be where a club providing unsafe premises in which to participate and as a result an injury occurs.

Nearly all organisations noted that public liability insurance was their primary concern and as noted above all organisations have cover and the majority have suffered increases in premiums. Several organisations commented that they could have had less of an increase or no increase at all if they had been willing to take increased levels of excess. However all opted for the increase in premiums noting that it would only take a small number of claims per annum to threaten the financial viability of the organisation given the increased levels of excess.

We have analysed the premium increases for this type of insurance over the last two years (all organisations with memberships over 50,000 were combined into one category for this exercise to enable sufficient meaningful sample sizes to be obtained).



The straight line represents the average increase for public liability insurance for all industries of 51% for the last year¹ and 22% for 2001².

¹ Source: Financial review 11 December 2002

² Source: ACCC Insurance Industry Market Pricing Review September 2002

These increases for public liability insurance are the largest of all the different types of insurance surveyed which again reinforces the fact that it is public liability insurance which is causing the most issues amongst the sporting bodies. As can be seen the 2002 increase has been larger than the 2001 increase for all sizes of organisation (it should also be noted that is a 'normalised' calculation as one organisation which reported a 770% increase has been excluded from the calculation within the 50,000+ members category, although one organisation is on a three year contract and as such has no increase is included). Generally those organisations which suffered a significant increase in 2001 have had lower increases in 2002 and vice versa. However a number of organisations were noted with increases of over 100% in both years.

As can be seen most sizes of sporting organisations suffered significantly higher increases than the average for both the years under review. From discussions with brokers this is likely to be due to the insurance companies believing sport is a high risk low return business and the perception that it is largely fragmented with brokers having to write many small policies. We also note recent press coverage which suggests that increases in premiums may reach 23% in the forthcoming year³. No broker we spoke to expected sports to be exempt from such an increase and again sport may suffer a higher increase than the average.

We also compared the level of increases in premiums for those organisations that packaged their policies against those which don't (packaging is where different types of insurance are packaged together within one policy for the organisation). For 2001 the organisations suffered an average increase of 49.4% for standalone policies and 54.9% for packaged policies. For 2002 those with standalone policies suffered a greater percentage increase (109.9%) while those which packaged their policies had an increase of 78.3%.

We then considered whether having a national scheme rather than just covering the national office resulted in different experiences (see below for details of a national scheme). We found that national schemes had lower levels of increases (with 45% and 61% for 2001 and 2002 respectively) compared to national office only (65% and 129% respectively), although it should be noted that the national office only is affected by two organisations which experienced significant increases, other organisations tended to be in line with national scheme increases.

Due to the lack of information willing to be provided by the organisations it was not possible to determine whether the larger organisations had a lower cost on average for their insurances.

³ Source: Financial review 11 December 2002

In terms of public liability insurance the limit of the indemnity ranged from \$5m to \$50m with the majority being \$10m. The level of excesses reported ranged from \$nil to \$350k with the majority \$1,000 or less. The \$350k (which is for a sport classed as very high risk) is significantly greater than the next highest at \$50k. The levels of indemnity and excess do not depend upon the size of the organisation. However when broken down by size it is noted that there is a very strong positive correlation for the smaller organisations implying that as the indemnity level increases so does the excess levels. Larger organisations do not exhibit similar trends.

In terms of the claims experience many organisations could not provide us with a breakdown or significant details. Broad trends are discussed below under 'History of Claims'. In respect of information specifically for public liability insurance as would be expected those sports with higher levels of participation and spectators noted the most frequent level of claims against them. For those that did provide details the value of individual claims appeared to be fairly small and the number of claims appeared consistent over the period.

The organisations were also asked to note whether their policy contained a clause in relation to an exclusion for Sports Participation Risk. Usually included in an insurance policy document are various exclusions. Liability insurance policies can include an exclusion relating to 'participating in a sporting event', which is generally not appropriate for a sporting organisation. This exclusion means that the policy will not respond to a claim made if the person was involved in a sporting event e.g. game, match, training etc. It is somewhat concerning that 43% of the organisations noted that the policies did include such a clause.

The survey asked whether member to member liability was included within the public liability policy. Member to member liability in relation to a liability policy allows one of the parties insured under the policy to take legal action against another of the parties insured under the same policy, with the cover still applicable to indemnify the defendant. For example, a player insured under an organisation's liability policy can take legal action claiming negligence against a coach insured under the same policy and the coach is indemnified under the policy. The responses indicate that 45% of policies include the liability whilst 27% exclude it and 28% did not know.

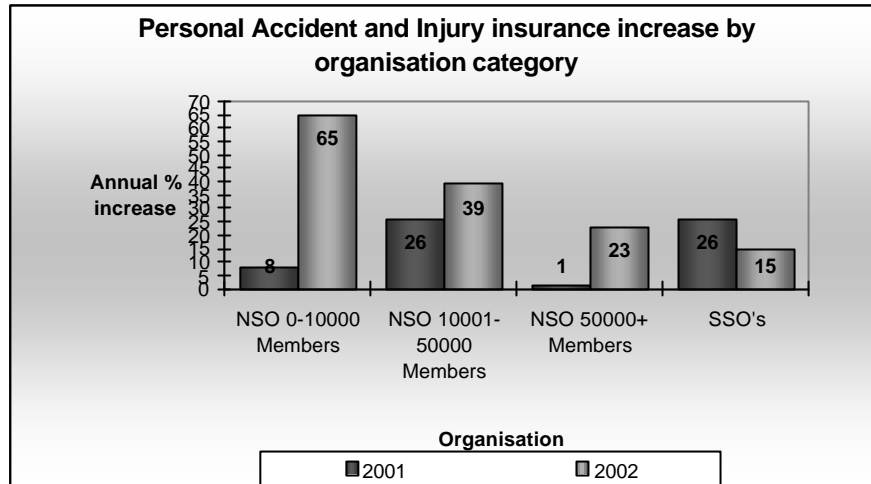
Personal Accident and Injury Insurance

Personal accident and injury insurance provides benefits as agreed at the time of taking out the policy to those insured should they be injured as a result of participation in the sport (negligence is not an issue). Benefits provided may include Death and Permanent Disability, Loss of Income and Non-Medicare Medical Expenses. An example of a claim under this policy may be a player injuring his knee during a game and thereby incurring physiotherapy expenses and losing income due to not being able to attend his normal occupation.

Whilst public liability insurance has been recognised as a “must have” class of insurance by sporting organisations (in many cases they must have such cover to use council grounds etc.) it is important to note that personal accident insurance does play a role in reducing the likelihood of a public liability action being commenced following an injury. Personal accident insurance provides agreed benefits (e.g. loss of income, non-Medicare medical benefits) for financial loss incurred as a result of injury occurring whilst participating in the sport insured. The fact that such compensation is received reduces the likelihood of the injured party searching for some grounds for a breach of duty of care action.

As noted above this is the least held of the insurances by the NSOs with only 69% holding the insurance whereas 92% of SSOs have personal accident and injury insurance. From discussions this appears to be the one insurance which has less importance and concern attached to it than the other types of insurance, although as noted above it can be linked to professional liability insurance and having it may reduce the claims experience of that insurance.

For those organisations holding this type of cover their recent experiences of increases is shown below:



As can be seen the smaller organisations have suffered greater increases than the larger organisations and as noted in other categories those organisations with lower increases in 2001 have generally suffered higher increases in 2002. There appears to be no specific industry information as to the level of increases in recent years across all industries, however the brokers we spoke to indicated that they would expect the increases to have been lower than for the other types of insurances. This may explain the lower importance / levels of issues placed on personal accident and injury insurance by the sports.

The organisations that hold the insurance were asked about the limits insured for death and permanent disability and the weekly benefit for loss of income insured to. Generally death and permanent disability ranged from \$10,000 to \$300,000 with 8% of organisations being less than \$50,000, 46% being between \$50,001 and \$100,000 and 46% being over \$100,001. In respect of the range of limits for weekly income subsidy is from \$200 to \$600 per week with 18% being less than \$250, 46% being between \$251 and \$500 and 36% being greater than \$501.

In terms of the maximum benefit for loss of income approximately 95% of organisations were 52 weeks with 7 days being the standard excess period.

For non-Medicare medical expenses the % of benefit ranged between 60% and 80% with the limit to any one injury between \$1,000 and \$2,000 and the excess amount was a nominal amount.

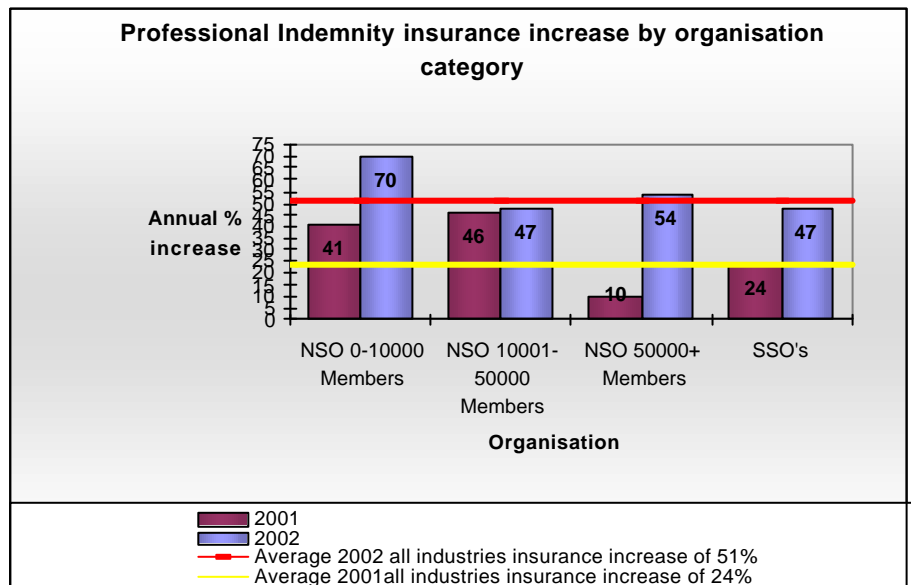
In terms of claims history the greatest number of claims appeared to be in respect of those organisations with the highest number of members or an increased risk of injury, although over time the number of organisations reporting claims against them has increased.

Professional Indemnity

This type of insurance indemnifies the insured against claims for compensation for breach of professional duty by way of act, error or omission. An example of a claim under this policy would be a coach giving incorrect instruction that results in injury.

As noted above 88% of the NSOs and 83% of the SSOs hold this type of insurance and for those that do the level of indemnity ranged from \$1m to \$15m with the majority being below \$5m. The level of excesses again ranged from \$nil to \$350k with one also at \$100k but otherwise the majority were \$5,000 or less. Whilst overall there is only a small positive correlation between the level of indemnity and excess for the all organisations, a stronger positive correlation exists for the smaller organisations.

With the exception of the public liability insurance this type of policy has generally suffered the highest level of increases with the smaller organisations suffering the biggest increases in 2002. The following demonstrates the increases notified:



As can be seen all but the largest NSOs had increases greater than the average in 2001 however they (and the smallest NSOs) had increases above the average for 2002. Professional indemnity insurance is also forecast to increase by the greatest percentage in 2003 (by 27%).

The claims history disclosed noted few professional indemnity claims made and these tended to be restricted to the larger organisations. One claim was

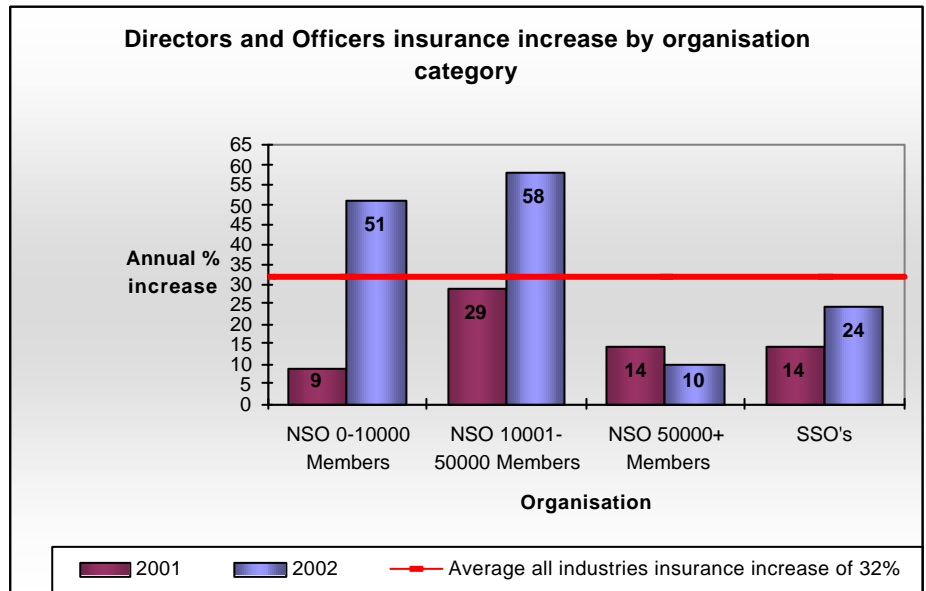
noted in the survey response totalling \$2.5m and the claims frequency appears to be increasing post 2000.

Directors and Officers Insurance

Directors and Officers insurance indemnifies the insured directors and officers of the organisation against “Wrongful Acts” committed in their respective capacities within the organisation. “Wrongful Act” includes breach of trust, breach of duty, neglect, error or omission. An example of a claim under this policy would be directors allowing an organisation to continue to trade whilst insolvent. This insurance excludes liability relating to physical injury, death or damage to property.

86% of the NSOs and 67% of the SSOs hold Directors and Officers Insurance and for these organisations the indemnity ranges from \$1m to \$10m with the larger organisations tending to have the higher levels of cover. The level of excesses range from \$nil to \$10k with the majority being below \$5,000. Overall there is no relationship between the level of indemnity and excess (i.e. the organisations with the larger indemnity do not have the higher levels of excess) although there is a positive correlation for the smaller organisations.

The increases in premiums recorded for this type of policy have tended to be lower than for the other types of insurance, although 2002 has seen some significant increases for the smaller organisations.



The average increase for all industries of 32% is for 2001.

For the Directors and Officers insurance the organisations were also asked whether the policy provides protection for the organisation as a legal entity in addition to the cover for individuals and whether the policy includes an extension for Employer Practices Liability. Of the respondents 60% replied that the legal entity was covered (with 4% unable to determine) whilst only 51% provided an extension for Employer Practices Liability (with 11% unsure). Employer Practices Liability covers employees of an organisation for actions taken against them (the most common examples would be cases of discrimination or wrongful dismissal). Whilst usually sold as an extension of Directors and Officers Insurance it can also be sold as a standalone policy.

Only a few claims were noted in respect of Directors and Officers insurance and these were typically low value with the highest being \$26,000. As with other claims they were targeted at the larger organisations and the number of claims has increased post 2000.

Details of sum insured

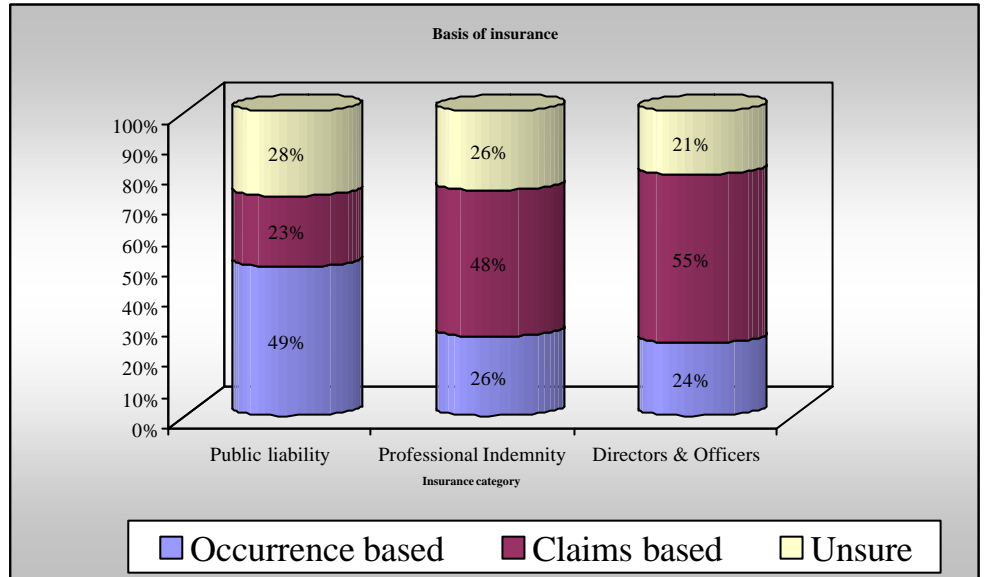
Organisations were asked to provide details of the level of indemnity and excesses for the last three years for each type of insurance. On the whole the comments received from the organisations is that they have opted to suffer increases in premiums rather than a reduction in the levels of insurance or an increase in the levels of excess. This is borne out in the premium analysis included above. A number of sports noted that they could have reduced their premiums by increasing their excesses however a small number of claims could then have a significant impact on their financial viability so they decided to pay the higher premiums.

The organisations were initially reviewed irrespective of size but to enable further analysis of any correlations between indemnity and excesses were then split into the three categories used above. Due to the lack of organisations willing to provide exact premium amounts it was not possible to look for correlations between premium levels and the levels of excesses.

For public liability, professional indemnity and directors and officers insurance the organisations were also asked whether the insurance was based on an occurrence basis or a claims basis. With an occurrence basis, it is the insurer that provides the liability cover at the time of the incident that responds to the claim (for example an incident occurs in 1999 and in 2002 legal action is instigated; it is the insurance policy applying in 1999

which would respond to the claim). With a claims basis, the reference is on when the claim is made rather than when the incident that led to the claim occurred. In addition the claim basis will also include a ‘retroactive date’ from which the insurer will only respond to claims occurring after this date.

The results of the percentage of organisations holding each type of basis are shown below:



As can be seen a significant number of organisations were unable to determine the basis of their insurance. In addition Directors and Officers insurance is not usually sold on an occurrence basis and as such the percentage appears high (and public liability is generally on an occurrence and not claims basis). The fact that the organisations could not determine the basis of their cover was noted as being in line with the experiences of a number of brokers with whom we discussed our findings.

History of claims

Organisations were asked to provide details on their history of claims over the last 5 years. Of those providing the information, 45% reported claims against insurance in the last five years. The vast majority of these were public liability and personal accident and injury. There were several minor claims (all less than \$3,000) for travel and there was only one significant claim (of \$26,000) in respect of Directors and Officers insurance.

Of the organisations making claims, 67% had claims in three or more years, and as would be expected there was a correlation that the larger the membership base the larger the number of claims made.

In terms of trends in the number of claims there is a surprisingly slight trend of a reduction in claims in recent years however this is not consistent across all organisations and is not significant. The number of organisations making claims has, however, increased over the period with 38% of those organisations reporting claims made a claim in 1998 and 1999 but 83% of the organisations reported claims in 2002.

Pooling

There is a perception that pooling of insurances can create benefits, either through enhanced size to remove any anomalies or unusual experiences that affect the claims history, by reducing the costs of writing the insurances or by sharing the risk. Overall the insurance risk generally remains the same (as in number of claims) and as such size alone does not improve the insurance position, although other efficiencies may be obtained.

Current Schemes

There are several types of pooling, some of which are already being utilised by some sports. The main two schemes are national schemes where the insurance is obtained generally on a whole of sport basis covering all organisations within that sport for that type of insurance and packaging where different types of insurance are packaged together for the organisation.

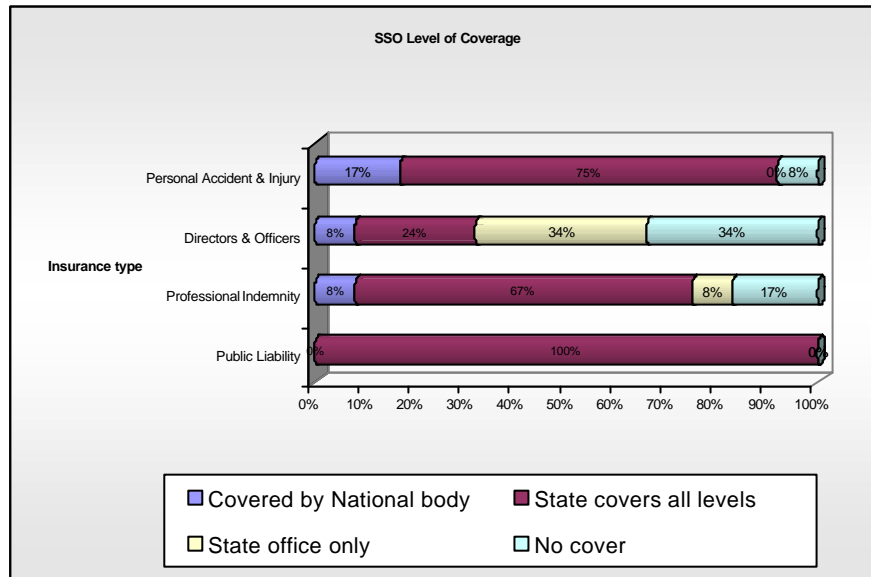
National Scheme Considerations

The following table shows for the NSOs whether policies are arranged under a National scheme or for the National office only:

| | National Scheme | National Office Only | No Coverage |
|----------------------------|-----------------|----------------------|-------------|
| Public Liability | 54% | 46% | 0% |
| Professional Indemnity | 55% | 33% | 12% |
| Directors & Officers | 28% | 58% | 14% |
| Personal Accident & Injury | 47% | 22% | 31% |

These results indicate a higher than expected number of sports covered by a national scheme. This could be due to the interpretation by the sports. As would be expected it is generally the smaller sports which are covered by the national schemes whereas a number of the larger sports have state based schemes in place with the NSO only having coverage at the national office level.

The lack of a national scheme covering Directors and Officers insurance is consistent with the issues noted above in that sports have been unable to gain coverage on a national basis. For the majority of insurances not covered by a National scheme the returned surveys indicate that they are covered by a state scheme (covering the SSO and locals within that state). The exception is Directors and Officers insurance which is covered by each body (although it is believed that the majority of local organisations do not have such cover). The SSO level of coverage is shown below:

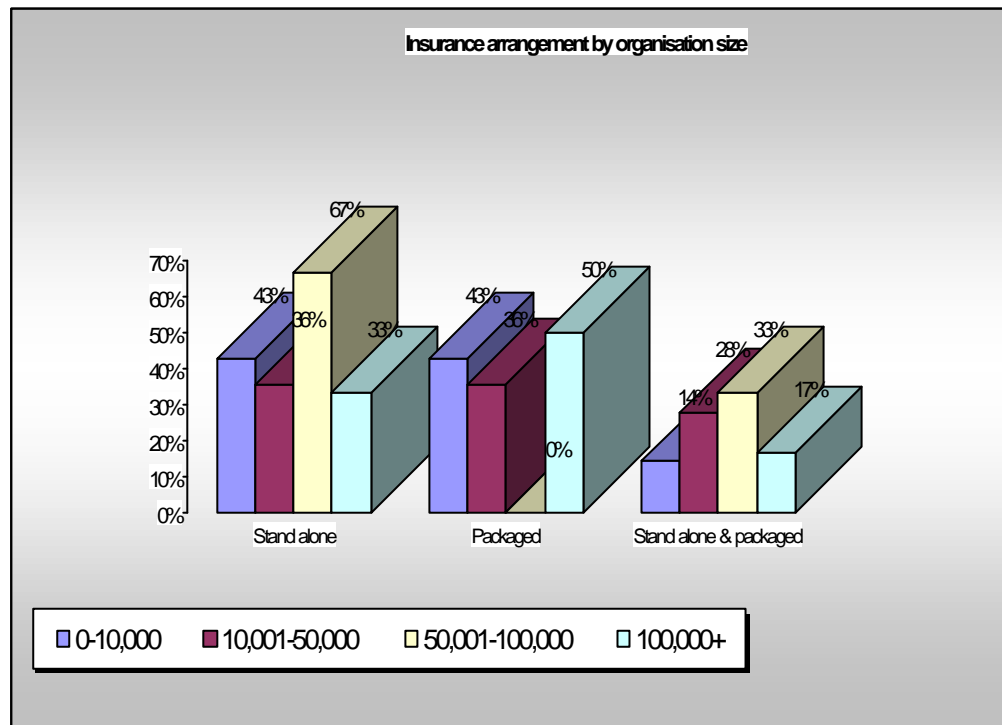


Some of the results appear inconsistent with those reported by the NSOs which also implies an interpretation issue but also may be due to the small sample size for SSOs.

Overall the results suggested that the sports that are covered by a national scheme did not receive significant benefits in terms of lower premium increases. However several brokers noted that it is generally easier to obtain coverage as the insurance company only needs to write one policy and not hundreds and that the sport can ensure that they have consistent and appropriate cover throughout all levels. One broker thought that this could be of particular benefit as if a local organisation did not provide coverage he felt that there may be a possibility of any action moving up the line to the SSO or NSO, although it should be noted that this theory has not been tested. A national scheme could also have the advantages of having one deductible or higher level of excess which is then shared across the whole sport.

Packaged

Information was also sought as to whether policies were arranged through a broker and whether they are packaged. 45% of NSOs purchased stand alone policies whilst 45% also packaged the policies and 10% combining some packaged and some stand alone purchases. For the vast majority of sports their insurances are arranged through a broker, irrespective of whether they are packaged or standalone. All packaged policies were arranged through a broker, whilst a few organisations did arrange their own standalone policies but these are the minority. Those organisations that had policies on a standalone basis tended to use the same broker for all of their insurances. When the organisations are broken down by size it can be seen that the very large organisations have packaged policies (although the next largest category have no all packaged arrangements).



Generally there is no correlation evident that those with packaged policies had better or worse experiences in either arranging insurance or in terms of premiums or excess changes, however comments are made below in respect of differences in recent increases in premiums.

Further Options

Group pooling scheme

There are also two further options in respect of pooling arrangements. The first is a group pooling scheme. This is where several sports would join together and arrange insurance on a pooled basis. Whilst risks could be averaged (for example by pooling high risk and low risk sports), most brokers we spoke to thought that this would have little impact on premiums as overall the incidence rate would remain the same. Any advantage would be obtained through combining smaller sports which alone are not of sufficient size to easily obtain cover. The survey asked sports whether they would consider such a scheme. As would be expected the majority of organisations (93%) expressed an interest in a group pooling scheme, the main reason being potential cost reductions. Concerns were raised, the main one being low risk sports having to absorb the risk from higher risk sports.

Captive Scheme

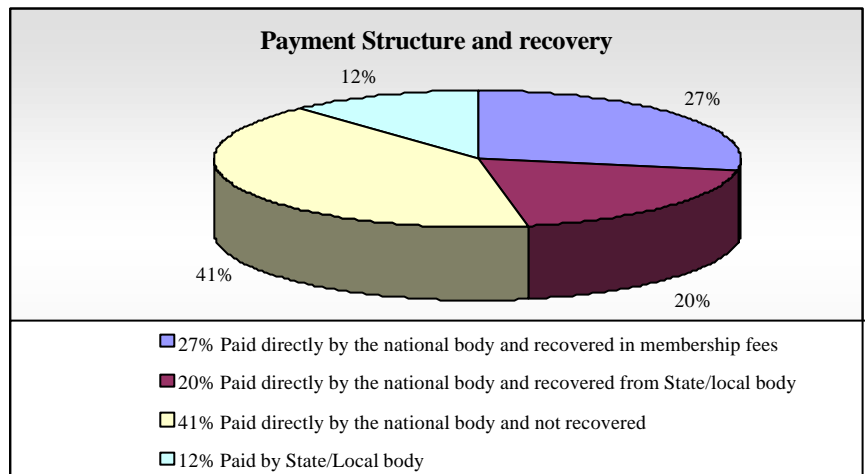
The second option would be in respect of a captive or self insurance scheme. This is where the sports effectively take the risk (possibly up to a certain level and only insure for claims above that level). Insurance premiums would still be paid by the organisations and they would then be invested. Any claims up to a certain limit would then be taken out of the investments.

Several brokers raised concerns around the sports operating such a scheme. The main concerns were the lack of expertise in establishing and operating such a scheme, especially as it is not the core business of the sports. Further there is a lack of detailed claims history to prepare actuarial calculations to determine the levels to which the sports could self insure and the premiums they would need to recover from the organisations. It should also be noted that self insurance schemes are inherently more risky as whilst the organisation effectively retains any 'premiums' obtained and not paid out, should claims be in excess of premiums then it will effectively record a loss. This is why having a detailed claims history helps set the premiums at the correct level. As already noted the sports do not have detailed claims details and obtaining this information would be necessary before deciding whether a self insurance scheme is feasible. Overall the brokers we talked to would not consider such a scheme except for the very largest of the sports.

Additional considerations in respect of pooling schemes are included later in this report under 'Factors to be considered in respect of a group buying / pooling scheme'.

Payment arrangements

The organisations were also asked to provide details of how their insurances were paid in terms of whether recoveries were also made. This analysis has been performed at the NSO level only. 88% of the NSOs paid the insurance policies directly with 47% recovering some or all of the payments from either the state and local bodies or through membership as shown below.



It might be expected that NSOs would recover part or all of their payments for some types of insurance, but not others. However, this was not the case. In particular three organisations noted that they recover D&O directly from the State/Local body. It generally appears that no distinction has been made between a direct insurance recovery component in membership fees and a general overhead cost recovery.

Risk management process

The organisations were asked whether they had a risk management program in place and other questions pertaining to risk management. Only 31% of the respondents claimed to have a program in place, although 75% of these (i.e. 23% of total) had an employee with risk management as part of their job description.

A number of organisations commented that they were looking at establishing risk management processes with the lack of time and the effort required being noted as the main obstacles to implementing such processes.

From the discussions we held with the brokers, all named risk management as the number one way in which the sports could influence their insurance premiums. In theory premiums are determined by the level of claims that in

turn can be influenced by the risk management programs which reduce the incidence of those claims (although as noted above in the current market place relating to sports there appears to be a lack of such a relationship).

The important point to note in respect of risk management is that the implementation is critical. Whilst education is the key to awareness, in order to reduce the claims experience and therefore the premiums, programs need to be implemented efficiently to reduce risks. As most claims are incurred at the local level it therefore follows that the risk management programs have to be implemented at all levels within the sport. This is where difficulties arise as the local organisations are generally staffed by volunteers and have a high turnover of personnel. Whilst there are a number of risk management packages available commercially it was commented by the brokers that these may be too generic for the sports. Risk management programs would need to be tailored not only to the individual sports but also to the individual levels within the sport. Obviously this will take resources. Lack of resources is also one of the key barriers identified by the sports preventing them from implementing risk management programs. It should also be noted that for risk management programs to be effective they need to be all encompassing and include loss control, compliance, financial management and occupational health and safety. One way forward may be to pilot risk management programs and develop standards within a few sports.

Other types of insurance

Whilst outside of the scope of this survey, for completeness purposes the sports were asked to note which other insurances they held. The percentage of organisations holding each type of insurance is as follows:

| Insurance | % with cover |
|------------------------------|--------------|
| Property | 45% |
| Motor vehicle | 18% |
| Workers compensation | 73% |
| High performance team | 13% |
| Contingency / prize money | 0% |
| Cancellation and abandonment | 0% |
| Travel | 20% |
| Other | 13% |

Summary of current and proposed legal frameworks in each jurisdiction

Background

It has been widely reported that Australian insurers have incurred significant underwriting losses on public liability insurance however other matters have also contributed to the insurance industry's current attitude to underwriting public liability cover. These include the shortage of capital in the global insurance market, contributed to significantly by the events of September 11 2001 in New York; claims provisions estimated at up to US \$100 billion have been publicised, which obviously dramatically affects solvency levels and the current state of the global equities market has seen the capital value of numerous insurers drastically reduced, also dramatically affecting solvency levels.

The long tail nature of public liability claims (i.e. claims on events occurring in a policy period being made long after the applicable policy period) requires much more extensive claims provisioning as compared to other insurance classes. This again has a negative effect on solvency levels, thereby reducing the appeal of public liability cover to insurers. The fact is insurers have limited capacity as to how much business they can underwrite; therefore their understandable response is to write those classes that give them the best potential for gain. Public liability insurance is not one of those classes.

These factors, plus others such as the HIH collapse, have combined to create the current public liability insurance crisis. However, if we put these matters to one side, a prime consideration in determining whether or not an insurer will underwrite a risk and what premium will be charged is the claims history of the risk in question, and perhaps even more importantly, the potential for claims on the policy in the future.

Insurance premiums are based on actuarial calculations, with the incident rate (e.g. the number of injury claims incurred) and the average cost of claim being central to the calculation. Actions that will result in sustainable and affordable insurance are those that will have a positive effect on the incident rate of claims and/or the average cost of claim; or in other words, those actions that will see an improved loss ratio for the insurer.

Public Liability insurance responds to legal liability resulting from loss of or damage to property, loss of use of property and death or injury due to negligence. The claims payments incurred by an insurer then is directly associated to whether or not their policyholder is deemed to be legally liable.

The vast majority of claims responded to by public liability insurance involve common law (negligence or breach of duty of care) actions. When considering what effect any legislation will have on the cost or availability of public liability insurance the following two questions are paramount:

1. What effect is this legislation going to have on the incident rate of legal liability actions responded to by the insurance cover? and
2. What effect is this legislation going to have on the cost of legal liability claims responded to by the insurance cover?

Following is a summary of the legislative responses proposed by the Commonwealth, State and Territory governments as a result of the public liability insurance crisis.

Commonwealth

Report of the Negligence Review Taskforce (the Ipp Report)

This report contains a total of 61 recommendations, including: -

- Contributory negligence – allowing for courts to find that a plaintiff who contributed to his/her own injury can be held fully responsible;
- Foreseeability of risk – allowing for defendants only being responsible for a risk that is not insignificant, rather than risks that are far fetched or fanciful;
- Caps and Thresholds – provides for a cap on general damages payouts of \$250,000 and a cap for loss of earnings of twice average full time adult ordinary time earnings. Also recommendation of thresholds to remove small claims from the system;
- Limitation on Legal Costs – abolishing orders for legal costs when the award of damages is less than \$30,000 and limiting legal costs to \$2,500 in cases where the award of damages is between \$30,000 and \$50,000;
- Public Authorities – providing a limited defence for public authorities such as local councils where they have taken a decision on policy grounds not to perform a public function, such as a road inspection; and
- Mental Harm – changing negligence law so that plaintiffs who suffer a physical injury can only claim for consequential psychiatric harm if they have suffered a recognised mental illness and not simply because an injury may have led to vague feelings of depression.

One of the Panel's recommendations was that these recommendations should be incorporated in a single statute to be enacted in each jurisdiction, however Ministers failed to agree to this national statute, instead favouring

nationally consistent laws. Whilst state legislation introduced to date generally follows the trust of the Ipp Report, the fact that there are variations from state to state does cause concern that these inconsistencies will lead to plaintiffs choosing to instigate legal action in that jurisdiction whose legislation best favours the plaintiff.

PricewaterhouseCoopers were requested to assess the potential financial implications to insurance cost of the Ipp recommendations. Their report acknowledged that the majority of recommendations are not easily costed, the estimates are very uncertain and the eventual outcome could be significantly different to the estimates.

The PricewaterhouseCoopers report divided the recommendations into 3 categories – Category A (those expected to have a financial effect and which can be formally assessed), Category B (those expected to have a financial effect but which cannot be formally assessed) and Category C (those of essentially an administrative nature). The estimated net effect of the Category A changes was an approximate 19.6% reduction in personal injury claims costs with no reduction in property damage claims costs. The overall result was a reduction in public liability claims cost of 14.7%.

Whilst recognising that there were a number of issues insurers will consider in setting future premiums, the report estimated that these claims cost reductions might translate into corresponding reductions in insurers premiums of around 13.5% on average. It was estimated that approximately half of the savings generated is the indirect result of eliminating small claims via the general damages threshold reinforced by legal cost restrictions on small claims.

The savings as a result of Category B recommendations cannot be formally assessed, however this should not be seen as diminishing their importance. The PricewaterhouseCoopers report states that it is quite plausible that these recommendations could result in claims cost reductions as significant as those of Category A. However, and unavoidably, their success or otherwise will be determined by legal drafting and judicial interpretation.

Much of the legislation outlined below that has been implemented or proposed (legislation that has received assent as at the beginning of November is noted accordingly, otherwise it is in the process of going through parliament) is in keeping with the thrust of the Ipp report, and directly addresses recommendations that are included in the Ipp report. It therefore follows that should this legislation come into operation the savings in liability insurance claims cost and premium will be in line with the estimates as per the PricewaterhouseCoopers Report outlined above.

It should be noted that the sports industry has experienced a higher increase in premium than all other industries, as such it may also experience different levels of increases to that forecast by the PWC report.

Trade Practices Amendment (Liability for Recreational Services) Act 2002 (Cth)

This Act, which was assented on 19 December 2002, amends the Trade Practices Act 1974 to permit self assumption of risk by individuals who choose to participate in inherently risky activities, and will allow them to waive their right under the Act to sue the business providing the activity, should they suffer personal injury as a consequence of the service provider's failure to supply the service with due care and skill.

This proposed legislative change is in keeping with the thrust of the Ipp report to assume reasonable risk associated with participation onto the participant. This amendment will allow disclaimers and waivers to play a more effective role in a sporting organisation's risk management program.

Trade Practices Amendment (Public Liability Insurance) Bill 2002

The purpose of this Bill is to grant the Australian Competition and Consumer Commission (ACCC) the necessary powers to ensure that savings from insurance law reforms are passed onto consumers.

Commonwealth Volunteers Protection Bill 2002

This Bill is intended to provide comfort to those people performing voluntary work for the Commonwealth or a Commonwealth authority. It will protect them from civil liability for acts or omissions of the volunteer done in good faith when performing that work that cause personal injury, property damage or financial loss.

Taxation Laws Amendment (Structured Settlements and Structured Orders) Act 2002

This Act, which was assented on 19 December 2002, inserts Division 54 of the Income Tax Assessment Act 1997 to provide a tax exemption for certain annuities and deferred lump sums made under structured settlements in relation to persons who have suffered a serious personal injury. Such structured settlements can be advantageous for both an injured person and an insurer.

In the case of the injured person, some may have difficulty in managing a lump sum payment. If lump sums are dissipated early injured people may be unable to meet on-going medical and other costs and become dependant on the public health and welfare system. For insurers, structured settlements can allow the damages to be more closely aligned with an injured person's actual needs.

New South Wales

Civil Liability Act 2002 (NSW) (Assented on 18/6/02–commenced retrospectively 20/3/02)

This Act reforms the current system of awards for common law personal injury claims. In summary, the Act:

- Sets the maximum amount for damages for non-economic loss at the same (indexed) amount as under the Health Care Liability Act 2001 No. 42 (NSW) – currently \$350,000;
- Dismisses damages for non-economic loss which are less than 15% of the maximum;
- Sets the maximum amount of damages for economic loss due to earnings at the same rate as applies under the Health Care Liability Act 2001 and the Motor Accidents Compensation Act 1999 – currently \$2,712 per week;
- Forces claimants to demonstrate that assumptions, such as those about future earnings capacity, accord with the claimants most likely future circumstances but for the injury;
- Requires lump sum damages for future economic loss to be discounted by 5% or an amount prescribed by the regulations;
- Removes the award of interest on damages for non-economic loss or gratuitous attendant care services;
- Provides for the rate of interest on damages to be determined by the regulations, or (if no rate is determined) the Commonwealth 10 year benchmark bond rate; and
- Provides that exemplary, punitive and aggravated damages will not be awarded in negligence cases.

The Act also amends Division 5B of the Legal Professions Act 1987 (NSW) to provide that, if the amount recovered on a claim does not exceed \$100,000, the maximum cost recoverable for legal services provided by the claimant is 20% of the amount recovered or \$10,000, whichever is the greater. It also amends Division 5C of the Legal Profession Act 1987 (NSW) to enact provisions with respect to the responsibilities of barristers and solicitors in connection with all claims for damages where there are no reasonable grounds for believing the claim is more likely than not to succeed.

Associations Incorporation Amendment (Public Liability) Regulation 2002 No. 281 (NSW) (Commenced 10/5/02)

This amends the Associations Incorporation Regulation 1999 No. 484 (NSW), the object being to omit the requirement that an association incorporated under the Associations Incorporation Act 1984 No. 143 (NSW) effect and maintain liability insurance. Such associations need only effect and maintain insurance.

Draft Civil Liability (Personal Responsibility) Bill 2002

This is stage 2 of the NSW government's public liability reforms. The intentions of the Bill include the following:

- Limit liability arising from recreational activities, particularly via the use of warnings and waivers;
- Limit liability succeeding when the injury is due to an inherent or obvious risk;
- Limit the scope of reasonable foreseeability;
- Prevent plaintiffs succeeding when their injury is due to their intoxication;
- Limit criminals recovering damages for injuries received while committing crimes;
- Introduce a new defence for professionals accused of negligence;
- Introduce proportionate liability for certain claims;
- Limit liability in tort of a public or other authority;
- Protect volunteers and good Samaritans from liability for their acts;
- Limit availability of damages for nervous shock;
- Prevent apologies being used as evidence of liability or fault; and
- Facilitate structured settlements in personal injury cases.

Some brokers noted that there is a school of thought that the legislation in NSW is considered as 'best practice' and that the other states will ultimately follow it.

Victoria

Wrongs and Other Acts (Public Liability Insurances Reform) Act 2002 No. 49 (Assented on 22/10/02)

This Act amends the Wrongs Act 1958 No. 6420 (Vic) by inserting a new Part VIA to provide protection for volunteers and good Samaritans from the risk of being sued. This Act also allows for an apology to not in itself represent an admission of liability for death or injury or of unprofessional conduct, carelessness or incompetence. In addition, the Act makes provisions for structured settlements, provides for waivers allowing people to accept responsibility for their participation in risky activities, protects from liability those who have donated food to charities in good faith, sets the discount rate for calculation of future economic loss at 5%, and states that where they are contributory factors, criminal activity or the ingestion of alcohol or drugs by the claimant should be taken into account by the courts in assessing injury claims.

Limitations of Actions (Amendment) Act 2002 (Vic) (Assented on 4/11/02)

This Act specifies a new, shortened limitation period of three years for actions in contract and tort, personal injury, and personal injury through disease and disorder.

Queensland

Personal Injuries Proceedings Act 2002 (Qld) (Assented on 20/6/02, commenced retrospectively 18/6/02)

This Act covers all claims for damages for personal injury based in tort or contract or in any form of action including breach of statutory duty and, for a fatal injury, includes a claim for the deceased's dependants or estate. The purpose of the Act is to assist the ongoing affordability of insurance through appropriate and sustainable awards of damages for personal injuries. Actions aimed at achieving this are:

- Providing a procedure for the speedy resolution of claims for damages for personal injury;
- Ensuring that a person may not start a proceeding in a court based on a claim without being fully prepared for resolution of the claim by settlement or trial;
- Promoting settlement of claims at an early stage wherever possible.
- Putting reasonable limits on awards of damages based on claims and allowing the courts to make orders for structured settlement payments; and
- Regulating inappropriate advertising and touting by legal practitioners.

The Act provides that legal liability does not attach to a person in relation to an act done or omitted whilst rendering first aid or other aid or assistance to a person in distress if the assistance is given while performing duties to enhance public safety for an entity that provides services to enhance public safety, and the assistance is given in circumstances of emergency and the act is done or omitted in good faith without reckless disregard for the safety of the person in distress or someone else.

Civil Liability Bill 2002 (Qld)

This bill has been tabled for consultation. It is based on the recommendations of the Ipp Report and is similar to the Civil Liability Bill in NSW. The issues to which the bill relates include the following:

- The general principals in regard to standard of care;
- The general principals in regard to causation;
- The meaning of obvious risk, with the injured person presumed to be aware of obvious risk and there being no proactive duty for a defendant to warn a plaintiff of an obvious risk
- No liability for materialisation of an inherent risk;

- No liability for personal injury suffered from obvious risks of dangerous recreational activities;
- Standard of care for professionals and their duty to warn of risk;
- The principals applicable in regard to contributory negligence; and
- Protection of persons performing duties to enhance public safety.

South Australia

Volunteer Protection Act 2001 (SA) (Commenced 15/1/02)

This Act protects volunteers in the community from personal liability by limiting the personal liability for negligence of a volunteer who works for a community organisation and transferring the liability to the community organisation. It also limits the right to bring proceedings against the volunteer personally and therefore reducing the risk to a volunteer of incurring legal costs as a result of the voluntary work.

The Wrongs (Liability and Damages for Personal Injury) Amendment Act 2002 No. 21 (Assented on 12/9/02)

This Act amends the Wrongs Act 1936 No. 2267 (SA), the purpose being to address the problem of high premiums by capping damages for all kinds of personal injury actions and making special rules about liability in certain cases (such as where the injured person is intoxicated or otherwise liable for contributory negligence).

The amending Act also makes amendments to ensure that “good Samaritans” will not be liable in damages for an act or omissions in good faith and without recklessness. Further amendments provide that after an incident out of which injury arises, a party may express regret for what has happened without this being used against him in a court of law.

Recreational Services (Limitation of Liability) Act 2002 No. 20 (SA) (Assented to 12/9/02 - the Act commences on a day or days to be proclaimed)

This Act limits the liability of providers of recreational services and must be read in the context of proposed amendments to the Trade Practices Act 1974 No. 51 (Cth). The Act establishes a mechanism whereby participants to a recreational activity may limit the legal liability of the provider of that activity for personal injury. Under the provision, a provider of recreational services can be registered as having undertaken to comply with a registered code of conduct. Having been so registered, the contract between the provider and the consumer would then be able to limit the provider’s liability to the extent that the provider complies with that code.

Good Samaritans (Limitation of Liability) Bill 2002 (SA)

This Bill proposed to limit the liability of persons who help victims in emergency situations, unless gross negligence was established. Refer to the Wrongs (Liability and Damages for Personal Injury) Amendment Act 2002 No. 21 (commented on above) for a more conservative version of this bill.

Landowners Protection (Recreational Use of Land) Bill 2002 (SA)

This Bill proposes to limit liability of landowners for injuries suffered by those entering their land for recreational purposes. In particular, it seeks to limit the duty of care owed by occupiers of land towards “gratuitous entrants”, in which case there will be no liability unless an injury arises as a result of the defective state of the land of which the occupier is aware but fails to give warning.

The Wrongs (Liability and Damages For Personal Injury) Amendment Bill 2002

This Bill proposes to extend the limitations on damages currently applying to motor vehicle accidents to all personal injuries suffered as the result of an accident caused wholly or partly by negligence, or some unintentional tort, or by breach of a contractual duty of care. Accordingly, the limitations in the Wrongs Act 1936 s 35A will apply to all such claims.

Western Australia

Volunteers (Protection from Liability) Bill 2002 (WA)

This Bill protects volunteers from incurring civil liability when doing community work in good faith on a voluntary basis and provides that community organisations that organise community work to be done by volunteers may incur the civil liability from which the volunteers are protected.

Insurance Commission of Western Australia Amendment Bill

This Bill proposes to amend the Insurance Commission of Western Australia Act 1986 No. 51 (WA). It proposes to set up a “Community Fund”, which would be underwritten by the Western Australia government and managed by the Insurance Commission of Western Australia. The Fund would be designed to provide insurance cover to community organisations which are unable to access private insurance cover. It proposes to establish a regime by which an organisation might be deemed an “eligible community organisation” for the purpose of the amendments.

Civil Liability Bill 2002 (WA)

This Bill proposes to apply the current restrictions applying to motor vehicle accident claims in Western Australia to all personal injury claims, other than those under existing statutory schemes, which includes workers compensation and motor accident claims, and criminal injuries compensation claims.

This involves a threshold of \$12,000 for non-pecuniary loss, damages for loss of earnings to accrue at the rate of 3 times average weekly earnings in Western Australia. Other measures include empowering a court to make consent orders for structured settlements and restrictions on advertising of personal injury legal services, similar to the restrictions imposed in New South Wales and Queensland.

Australian Capital Territory

Civil Law (Wrongs) Act 2002 No. 40 (Assented on 10/10/02)

The purpose of this Act is to reform tort law and address legal issues to do with insurance. New provisions include a good Samaritan clause, the capping of legal costs in personal injury cases where the damages award is \$10,000 or less, prohibiting lawyers from prosecuting a civil claim if there are no reasonable prospects of success, and establishing new presumptions for contributory negligence.

Participants in the insurance market will be required to provide annual returns indicating the quantum of premium taken, claims made, claims paid and claims refused in relation to the ACT market.

Adventure Activities (Liability) Bill 2002

This Bill seeks to implement a regulatory regime for adventure activity operators who run businesses involving activities that have an inherent risk. It proposes to limit liability for death or serious injury for persons taking part in certain adventure activities, and also proposes that compensation proceedings in relation to adventure activities be brought only for serious injury or death.

The Bill also proposes a scheme intended to limit injury in adventure activities, namely to require adventure activity operators to be approved by the relevant Minister.

Insurance Compensation Framework Bill 2002

This Bill proposes to establish a “no fault” system, similar to that in Workers Compensation to replace the current common law tort-regulated liability, with the focus shifting to the rehabilitation of injured parties rather than monetary restitution. The Bill proposes to impose obligations on injured parties, insurers, business operators and legal practitioners.

Northern Territory

Personal Injuries (Liabilities and Damages) Bill 2002 (NT)

This Bill proposes to modify the law relating to the entitlement to damages for personal injuries, to clarify principles of contributory negligence, to fix reasonable limits on certain awards of damages for personal injuries, to provide for periodic payments of damages for personal injuries and for related purposes. Similar to proposals from other states, the Bill proposes to address damages to an injured person that was engaged in a criminal activity and an intoxicated claimant. It would also offer protection to good Samaritans and provide volunteers with a limited personal duty of care, with the liability being transferred to the community organisation or organisation responsible for engaging the volunteers.

A cap on pecuniary damages is proposed, limited to three times the average weekly earnings. Non-pecuniary damages would also be capped, limited to a maximum of \$250,000, with no damages payable for pain and suffering less than \$15,000. The Bill aims to preclude a court from awarding exemplary and aggravated damages in respect of personal injuries caused by negligence. The courts ability to make a consent order for a structured settlement and the ability to express regret without this being construed as an admission of liability are also addressed in the Bill.

The Personal Injuries (Liabilities and Damages) (Consequential Amendments) Bill 2002 (NT) is related with the previous Bill and proposes to make a number of minor amendments.

Volunteers Protection Bill 2002 (NT)

Similar to the South Australian Bill, this Bill proposes to limit the personal liability for negligence of volunteers who work for community organisations and transfers the liability to the organisation. It also proposes to limit the right to bring proceedings against volunteers personally, thus reducing the risk of volunteers incurring legal costs.

We acknowledge Landers and Rogers for the source of information in regard to legal changes proposed/introduced.

Conclusion

As the legislation summarised above demonstrates there is much happening in regard to legislative change at both the Federal and State (and Territory) level aimed at addressing this liability crisis. There is no doubt that when these changes pass through the parliamentary system and become law it will result in a reduction in both the incidence and quantum of liability claims. This should result in an increase in insurers' underwriting confidence and see them being more receptive to writing public liability insurance. The reform should encourage those public liability insurers who

are still in the market to remain, and those who aren't currently in the market to consider re-entering it. The premium for such cover should reflect the reduction in the amount of liability claim payments, which will be further aided by the increased underwriting confidence and competition in the market.

However, this will not happen overnight, and as stated previously, there are other factors that influence insurers in their risk acceptance and pricing decisions. This is illustrated by the fact that it has been reported that key commercial line of insurance such as public liability, professional indemnity and Directors and Officers are expected to increase in 2003 by 20% or more¹ with increases still flowing through in 2004, albeit to a lesser degree. Certainly legislative change will be valuable in ensuring cost sustainability, but other measures also have a valuable part to play.

¹ Source: Australian Financial Review 11 December 2002

Factors to be considered in respect of a group buying / pooling scheme

Background

It is important to clarify what is meant by group buying/pooling for the purposes of this report. Group buying/pooling is where the insured party(ies) under a policy (in the case of sport we are generally referring to organisations and participants, coaches, officials etc.) are increased in number/size by including other organisations etc. under the same insurance policy. This could be done by including other organisations from the same sport under the one insurance program, it could be extended further to include other sports and their affiliates under the one insurance policy, or it could be extended further still to the extreme extent where all sporting bodies within the country are insured under the one insurance program.

The principles of group buying/pooling are the same whether you are referring to traditional insurance programs through an insurance company, a program that is a combination of traditional insurance with a self-insurance component (i.e. with a large excess applying), or a completely self insured/managed program (often referred to as a mutual fund). These are explained in more detail below.

Current and future Federal and State legislation should have a positive effect on the incident rate and quantum of liability claims, which in turn will have a positive effect on the cost of risk transfer, irrespective of whether group buying/pooling and self-managed arrangements apply or not.

Due to the current liability insurance crisis and the difficulty experienced by some not-for-profit organisations in obtaining insurance cover, or at least affordable cover, a couple of state governments have responded by organising group liability schemes for those organisations. The Victorian government in association with the Municipal Association of Victoria (MAV) has developed a scheme to provide public liability insurance to community and not-for-profit organisations. The scheme is based on the mutual liability scheme established by MAV that insures local government for public liability. Tasmanian not-for-profit organisations are also able to participate in this program. It must be noted however, sporting organisations are excluded from this program. We understand that this was a deliberate measure as it was thought more appropriate for sports to be covered by national schemes.

The Queensland government also established a group liability scheme for not-for-profit organisations, with sporting organisations having the ability to be involved. Recent media reports suggest that this scheme is experiencing some problems, with some organisations unable to obtain insurance and the premium quoted in some instances being higher than is available in the general insurance market. The scheme is being revised to focus on those organisations that have been unable to obtain insurance cover.

The section on proposed legislative change included in this report noted the proposed Insurance Commission of Western Australia Amendment Bill. This Bill proposes the setting up of a “Community Fund” underwritten by the government and designed to provide insurance cover to community organisations that are unable to access public liability insurance elsewhere. This Bill is still in the parliamentary system, but similar to the situation in Victoria, it seems likely that it will not be available to sporting organisations.

No other government group schemes are known to be proposed at this stage in other states and therefore such government-initiated programs are considered to have little effect on sporting organisations.

For those organisations that do have the opportunity to be involved in state government based not-for-profit group buying schemes market conditions will determine whether they participate in a state government administered group program or continue their involvement in industry and private programs.

Whilst not a state government program, a co-insurance panel consisting of Allianz Australia Insurance Ltd, NRMA Insurance (IAG) and QBE Insurance (Australia) Ltd is putting together the Community Care Underwriting Agency for operation in NSW. This facility is planned to provide public liability insurance for NSW not-for-profit organisations with a turnover and funding of less than \$2 million a year and involving volunteers in administration. This underwriting agency has been granted interim authorisation from the ACCC, but its operation is pending royal assent of further public liability law reform in NSW. Full details of policy cover and pricing is not yet available, which is obviously critical in determining to what extent this program will relieve the situation. As with other programs, product and market conditions will determine the take-up of this program by sporting organisations.

The brokers we discussed this program with did not expect it to have an immediate effect on the viability of national schemes and noted that based on experiences to date of similar programs it would be unlikely to do so, however they did comment that if appropriate cover could be obtained at an attractive cost then national schemes may become less viable.

Considerations

An obvious question is what are the benefits of group buying/pooling?

As mentioned above, insurance premiums are based on actuarial calculations, with the incident rate (e.g. the number of claims occurring as a percentage of the total participants) and the average cost of claim being central to the calculation. Once you have a situation where there are a sufficient number insured to prevent distortion of average incident rates, there is no further benefit from the perspective of risk exposure and claims loss ratios in having a greater number of people insured. To clarify further, say an insurer is covering one club of 20 players only under a personal accident policy, the insurer is exposed to the risk of pure bad luck, where that particular club may have a spate of injuries. On the other hand, if the insurer is covering the whole association consisting of say 500 members, then there is sufficient numbers to suggest that the average injury rate for the sport will apply and thus the insurers risk is reduced.

Let's look at a hypothetical situation. Say the incident rate for injury in a particular sport is one injury per 500 participants. Whether the insurer has 5,000 insured or 50,000 insured, the incident rate is still one injury per 500 participants – the extra 45,000 participants will not improve the underwriting result for the insurer.

Therefore extra numbers alone provide no incentive for the insurer from a risk exposure perspective to charge a lesser premium – in fact, the Australian insurance industry had a loss ratio for public liability insurance in 2000 of 134% (i.e. for every \$100 premium collected they incurred claims of \$134). In these circumstances then, it stands to reason that additional insured would be the last thing an insurer would want, as it would just increase their losses. Whilst some insurers may be tempted by the lure of extra premium for investment purposes, the current returns on investment have reduced this incentive dramatically. It is the attitude of unrealistic pricing to achieve premium for investment that contributed significantly to the demise of HIH and the current state of acceptance and rating that the insurance industry is currently applying.

The other issue that needs to be considered in regard to pooling is that those extra numbers included in the program may well include higher risks than those already insured. This does not just relate to where the new people are involved in a higher risk sport, but also where the additional numbers may have a less disciplined approach to player safety and the like.

The situation as outlined above applies to all forms of group buying/pooling programs – traditional insurance, traditional insurance including some self insurance (large excesses) and self-insured/managed programs.

Actions that will result in sustainable reductions in premium/cost are those that will have a positive effect on the incident rate of claims and the average cost of claim; in other words those actions that will see an improved loss ratio for the insurer/fund. These actions best fit under the general title of effective risk management programs.

Critical to any action taken to improve the current situation in regard to the cost and availability of insurance is effective risk management programs being implemented within the sports industry and becoming an integral part of the culture of every participating organisation and individual within the industry. A group buying/pooling scheme will only be sustainable and of significant benefit from the cost perspective if it includes an effective risk management program – and such a risk management program needs to be applied by every organisation participating in the scheme.

It is recommended that defined standards of risk management, including specification as to the policies and procedures required, be determined and promoted to all organisations within the sports industry. The types of procedures required should be generic to all organisations (e.g. procedures for ensuring equipment and venue safety), with each sport then having its specific tailored guidelines (e.g. procedures for safety of sport specific equipment). In order to ensure that the risk management procedures are practical and workable, especially considering the need for them to be adopted by volunteers and members, and to ensure that they can become embedded within the culture of the organisation, it may be more efficient to pilot risk management programs and develop standards within a few sports prior to rolling out to all sports. An appropriate compliance system implemented by the sport or external to the sport will be necessary to provide comfort to insurers that such programs are being effectively introduced and thereby reducing risk exposure.

In view of the very important role risk management has to play it is of considerable concern that only a very small proportion of national and state sporting organisations have effective risk management programs through all levels of their sport. The nature of the responses received in the survey illustrate that sporting organisations struggle to come to terms with introducing a risk management program through all levels of their sport (realise that it is risk management programs being in place at the ‘coalface’ that insurers are particularly concerned with - that is where the claims are generally incurred).

Only 31% of National Sporting Organisations that responded to the survey indicated that that their sport had a documented risk management program in place that included policies and procedures for identification, evaluation and control of risks, and only 44% of those organisations (i.e. 14% of total national respondents) programs extended to all levels of the sport (i.e. national, state and local club). Of the State Sporting Organisations that

responded, 42% indicated that their sport had a documented risk management program in place that included policies and procedures for identification, evaluation and control of risks, with only 20% of those organisations (i.e. 8% of total state respondents) programs extending to the local club level. Analysis of the responses suggests that even those programs in place have scope for further development.

Common obstacles identified from the survey to the introduction of risk management programs within sporting organisations were time and human resource constraints, lack of co-ordination between the national, state and local club levels of the sport and lack of expertise. The additional resources identified by the organisations as being required, apart from time, human resources and funding, was education – specifically the availability of external expertise and a sport template that addresses what sporting organisations should address in their risk management program.

The survey conducted highlighted that organisations are aware of the important role of risk management with 83% of responding national organisations and 60% of responding state organisation stating that they would be prepared to allocate resources to undertake a review and audit of their risk management programs.

It is worthy of note that some of the state legislation being proposed to address this liability crisis includes systems of accreditation, registration or approval of service providers based on compliance with quality standards (e.g. Adventure Activities Protection Bill 2002 (Vic), Recreational Service (Limitation of Liability) Act No. 20 (SA) and the Adventure Activities (Liability) Bill 2002 in the ACT). This is indicative of the importance recreational service providers must place on safety and risk management.

Be it traditional insurance or a self-managed mutual fund, the foundation of any group buying/pooling scheme is an effective risk management program. Whilst group schemes may provide organisations who have difficulties in attracting insurers due to insufficient numbers a more attractive insurance proposition, the cost benefits of such grouping/pooling will be minimal without the reduction in risk that results from risk management implementation. Grouping in isolation without risk management is not the solution. Let us now consider the situation in regard to traditional insurance as compared to a self-managed/insured mutual fund.

The traditional insurance market is the avenue pursued by the vast majority of sporting organisations at this time. It provides security and pays claims as per the terms and conditions of the policy. Included in the calculation of the total amount payable by the customer are an allowance for the insurers administration expenses and an allowance by the insurer for a profit margin. The total amount payable by the client includes government charges and GST. However, please note that the security of insurers deserves further

explanation. Due to the difficult market conditions in sourcing liability insurance there can be offers of cover from insurers that do not necessarily enjoy acceptable security and claims paying ability standards. It is possible that some sports could expose themselves to risk in this way. An additional method sports can obtain commentary on an insurers financial viability is through a report of a credit rating company such as Standard and Poors and AM Best. International credit rating companies can also provide commentary on overseas insurance companies. It is recommended that sporting organisations refer to such ratings prior to making a purchase decision, although they should appreciate that this is only one tool in assisting with the purchasing decision and as with all such information it is not a guarantee as to financial viability.

The usual methodology for a self-managed mutual fund involves a self managed component combined with traditional insurance. In very simplistic terms, an aggregate limit is determined up to which all “claims” are addressed by the administrators of the fund. Should this aggregate limit be exceeded, then a traditional insurer, thereby removing financial risks from the fund, would cover these claims. Such funds are usually totally administered on a fee for service basis by external managers with appropriate expertise. The use of an external manager was reinforced by the brokers we spoke to which commented that currently the sports do not have the expertise within the organisations and if they attempted to obtain it this could become costly and take the sport away from its core business, that of sport administration.

It is obvious that it is extremely important that the aggregate limit under which claims are met by the fund is appropriate. This involves actuarial calculations based on the claims experience of those organisations participating in the fund. It follows then, that detailed and accurate claims history must be available.

Such a program is funded by those organisations involved, in the same way as them paying an insurance premium. The total funding required for the program will be: an amount equivalent to the aggregate limit to be met by the fund, plus the cost of the traditional insurance that is going to cover any claims should the aggregate limit be exceeded (which still allows for insurer’s administration expenses, a profit margin, government charges and GST), plus the fee to be charged by the administrators of the fund. In theory this will be less than what would have been required for a normal traditional insurance program as there is savings on government charges and GST, the profit margin of the traditional insurer is removed and administration expenses may well be less than what an insurer would have allowed for in his premium. Further advantages are that any surplus is retained by the fund (greater incentive to embrace risk management), there is the potential for investment income and the sports industry does have

ownership of the program and control over benefits and claims management.

It should also be noted however that there are significant risks of such a scheme. If the claims are higher than expected the scheme may record a loss (this would be where claims are higher than the premiums collected less the administration charge). In this scenario, the loss needs to be covered or 'underwritten'. For a scheme covering sports one would assume that the sporting organisations would then need to cover the losses. These organisations are 'not for profit' and usually have only minimal reserves as such significant loss could affect the ongoing viability of the sports.

It also needs to be appreciated that several sports joining together in such schemes does not reduce the risks. The incidence rate for the individual sports does not change and therefore the risk profile of the scheme does not improve. The sports would also still need the detailed data collection.

Comment

A self-managed mutual fund for Australian sport may be feasible (particularly in view of the attitude of the insurance industry to sporting risks), however the following issues must be addressed. The majority of Australia's National Sporting Organisations are not of a sufficient size and therefore do not have a sufficient premium pool to set up such a fund for their sport in isolation. Also, such a fund must be based on very sound foundations, requiring detailed claims/injury data to allow actuarial calculations in regard to the level of self-insurance and the benefits, terms and conditions to be provided under the program.

The availability of such data is one area of concern in setting up an industry fund. Basically, it is not available. A tried and true management philosophy is, "if you cannot measure it you cannot manage it". It is critical that statistical data is collected to manage the incidence and severity of sporting injuries. The success or otherwise of prevention programs must be evaluated by being able to compare the number of injuries occurring before the implementation of the program compared to after implementation.

A feasible approach to the methodology of arranging risk transfer for the Australian sports industry would be the immediate promotion of a comprehensive risk management program throughout all sporting organisations, including the requirement for those organisations to meet minimum standards in that regard. Whilst an industry self-managed mutual fund may be an appropriate medium (5 year) term goal; within the next 3 years detailed injury/claims data must be collected to provide a solid foundation on which to base such a program. Following the collection of this data, feasibility into the establishment of a mutual fund could then be

performed through the actuarial analysis of the data. It should be noted that there are many implementation issues, of which reliable data is key, which need to be overcome prior to the establishment of a mutual fund for the sports industry. In the meantime traditional insurance remains the appropriate means of risk transfer for the majority of sporting organisations, utilizing group buying/pooling arrangements where possible.

The survey shows that 89% of national sporting organisations that responded and 75% of responding state sporting organisations would at least consider involvement in a group buying/pooling arrangement.

The areas of concern for sporting organisations in regard to entering group buying/pooling schemes were largely as to be expected. In addition to the matter of cover to be provided and cost of the cover, the two most common questions centred around:

1. How can I be confident that the poor performance of other organisations included in the scheme will not adversely affect the scheme's results and therefore increase the cost to my organisation?
2. Will my "low risk" sport with minimal claims be subsidising the cost of the program for those "high" risk sports that have numerous claims?

The first question is addressed by the implementation of risk management programs with minimum standards required of every organisation participating in the program. Every organisation involved would be required to implement appropriate safety programs.

The second question is addressed by the methodology adopted in setting the cost for participating in the program of those organisations involved. A group buying/pooling scheme does still allow flexibility in the way charges are levied to the participating organisations; it is not a "one price fits all" situation. Organisations can still be rated on various criteria, including the inherent risk of injury in their sport, claims results, etc.

Organisations Providing Input

The following organisations provided input and information in respect of this review:

NSOs

Archery Australia Inc
Athletics Australia
Badminton Australia
Australian Baseball Federation Inc
Basketball Australia
Bicycle Motocross Australia Inc
Bocce Federation of Australia
Boxing Australia
Australian Calisthenics Federation Inc
Australian Canoeing Inc
Croquet Australia
Australian Cycling Federation Inc
Diving Australia Inc
The Equestrian Federation of Australia
Gymnastics Australia Inc
Hockey Australia
Ice Skating Australia Inc
Judo Federation of Australia Inc
Australian Lacrosse Limited
Women's Lacrosse Australia
Netball Australia
Orienteering Australia
Australian Parachuting Federation Inc
Australian Pony Club Council Inc
Powerlifting Australia Inc

Skate Australia

Rowing Australia Inc

Australian Rugby League

Australian Rugby Union

Australian Yachting Federation

Australian Shooting Association

Skiing Australia

Soccer Australia

Australian Softball Federation Inc

Squash Australia Ltd

Surf Life Saving Australia

Australian Swimming Inc

Synchronised Swimming Australia Inc

Table Tennis Australia

Tenpin Bowling Australia Ltd

Tennis Australia

Australian Touch Football Association Inc

Triathlon Australia

University Sport

Australian Volleyball Federation

Australian Water Polo Inc

Australian Water Ski Federation

NSODs

Australian Paralympic Committee

Special Olympics Australia

Australian Blind Sport Federation

Deaf Sports Australia Organisation

Wheelchair Sports Australia

Australian Sports Organisation for the Disabled Inc

Cerebral Palsy Australian Sport and Recreation Federation

Riding for the Disabled Association of Australia

AUSRAPID

Transplant Australia

SSOs

NT Ladies Bowling Association

Baseball NT Inc

NSW Badminton Association

SA Softball Association

Badminton Victoria

Victorian Amateur Fencing Association

Tasmanian Bowls Council Inc

Tasmanian Rowing Council Inc

Queensland Swimming Association Inc

Queensland Yachting Association Ltd

Volleyball ACT

ACT Judo Association

Appendix

Questionnaire Template



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

A. BACKGROUND

Name of sporting organisation: _____

Body is: National State Club/Local

Name of interviewee: _____

Position of interviewee: _____

Number of employees for your organisation: Full Time: _____ Part Time: _____

Number of registered members in your sporting organisation for the last 3 years:

2000: _____ 2001: _____ 2002: _____

Comments: _____

B. BASIS OF CURRENT SPORTS INSURANCE ARRANGEMENTS

B1 In relation to your current sports insurance policy/s, which of the following types of insurance are covered: (A detailed terms and definitions schedule has been included at Appendix: A to assist in completing this question.)

Public Liability Insurance Professional Indemnity Insurance Directors and Officers Insurance

Personal Accident and Injury Insurance



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

B2 (a) How is your sports insurance policy arranged:

Note: Please tick all applicable boxes.

For National Sporting Organisation, please tick section (A) and /or (B) if applicable.

For State Sporting Organisation, please tick section (A) and / or (C) and / or (D) if applicable.

For Local Sporting Organisation, please tick section (A) and / or (C) and / or (E) if applicable.

| TYPE OF INSURANCE | (A) | (B) | (C) | (D) | (E) | INSURANCE COMPANY |
|------------------------------|--|----------------------------|--|-------------------------|---|-------------------|
| | NATIONAL Covering all levels of the sport | NATIONAL OFFICE ONLY | STATE Covering State and local organisations | STATE OFFICE ONLY | LOCAL Local organisations arrange their own cover | |
| Public liability insurance | † | † | † | † | † | _____ |
| Professional indemnity | † | † | † | † | † | _____ |
| Directors and officers | † | † | † | † | † | _____ |
| Personal accident and injury | † | † | † | † | † | _____ |

Comments: _____

(b) Are the sports insurance policies arranged through an insurance broker:

NAME OF INSURANCE BROKER

| | | | | | |
|------------------------------|---|-----|---|----|-------|
| Public liability insurance | † | Yes | † | No | _____ |
| Professional indemnity | † | Yes | † | No | _____ |
| Directors and officers | † | Yes | † | No | _____ |
| Personal accident and injury | † | Yes | † | No | _____ |

B3 Are the types of insurance identified in B1 above arranged on the basis of an insurance “package” or is each insurance type arranged on a stand alone basis:

Packaged

Stand alone

Unsure If Packaged By Company By Broker

Comments: _____

B4 (a) How are the insurance premiums identified in B2 (a) above paid for by your sporting organisation:

| Type of insurance | Paid directly by the National Body | Paid directly by State Body | Paid directly by Local/Club Body | Other; please comment |
|------------------------------|------------------------------------|-----------------------------|----------------------------------|-----------------------|
| Public liability insurance | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| Professional indemnity | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| Directors and officers | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |
| Personal accident and injury | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | _____ |

(b) Are the insurance premiums paid by your sporting organisation recovered as a component of membership:

| Type of insurance | Recovered by either National/State/Local Bodies via membership fees | Please comment |
|------------------------------|---|----------------|
| Public liability insurance | <input type="checkbox"/> | _____ |
| Professional indemnity | <input type="checkbox"/> | _____ |
| Directors and officers | <input type="checkbox"/> | _____ |
| Personal accident and injury | <input type="checkbox"/> | _____ |

Organisation Number: _____

Name of Ernst & Young Interviewer: _____

B5 Does your current insurance provide coverage for the following:

Please tick all applicable boxes

| Type of insurance | Affiliated member organisations (including state associations and their affiliates) | All Participants/ Registered Members | All Coaches | All Officials | All Administrators / paid or unpaid | Other: please comment |
|------------------------------|---|--------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-----------------------|
| Public liability insurance | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |
| Professional indemnity | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |
| Directors and officers | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |
| Personal accident and injury | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |

B6 Did you encounter any problems when arranging your current insurance policies:

| | Yes | No | Comments |
|------------------------------|-------------------------------------|-------------------------------------|----------|
| Public liability insurance | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |
| Professional indemnity | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |
| Directors and officers | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |
| Personal accident and injury | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | _____ |

B7 Have your Insurance premiums within the following categories increased over the last 3 years:

Insurance Cost Increase:

If yes, please give details in (\$)/% increases over the last 3 years. For % increases, please use the prior year as the base year. Increases to be for the respective years. (Eg for Year 2000 increases, the year ended would be in 2000)

| | Insurance Cost Increase: | | 2000 | 2001 | 2002 |
|----------------------------|---|--|-----------------|-----------------|-----------------|
| Public liability insurance | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | ___% / \$ _____ | ___% / \$ _____ | ___% / \$ _____ |
| Professional indemnity | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | ___% / \$ _____ | ___% / \$ _____ | ___% / \$ _____ |
| Directors and officers | Yes <input checked="" type="checkbox"/> | No <input checked="" type="checkbox"/> | ___% / \$ _____ | ___% / \$ _____ | ___% / \$ _____ |



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

Personal accident and injury Yes † No † ___% / \$ _____ ___% / \$ _____ ___% / \$ _____

C. DETAILS OF SUMS INSURED

C1 Please provide details of the sums insured, excesses applying and any exclusions/conditions changes for your sporting organisation (for the last 3 years):

i) Public Liability (refer Definitions at Appendix A):

Limit of Indemnity(refer Definitions at Appendix A): 2000: \$

2001: \$

2002: \$

Excess Amounts: 2000: \$

2001: \$

2002: \$

(a) Have there been any other policy changes over the last 3 years eg. additional exclusions applied, special conditions imposed or additional conditions imposed (including those requested by your organisation):

2000 Comments: _____

† Yes _____

† No _____

2001 Comments: _____

† Yes _____

† No _____

2002 Comments: _____

† Yes _____

† No _____



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

(b) Does the wording on your policy specifically state that the insurance is based on an:

Occurrence basis (refer Definitions at Appendix A)

Claims made basis (refer Definitions at Appendix A)

Unsure

(c) Does your policy contain a clause in relation to the following:

An exclusion for "Sports Participation Risk" (refer definition at Appendix A)

Yes No Unsure

Is "Member to Member" liability included (refer Definitions at Appendix A):

Yes No Unsure

ii) Professional Indemnity (refer Definitions at Appendix A):

| | | | |
|---|-------|----|-------|
| Limit of Indemnity (refer Definitions at Appendix A): | 2000: | \$ | _____ |
| | 2001: | \$ | _____ |
| | 2002: | \$ | _____ |

| | | | |
|-----------------|-------|----|-------|
| Excess Amounts: | 2000: | \$ | _____ |
| | 2001: | \$ | _____ |
| | 2002: | \$ | _____ |



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

(a) Have there been any other policy changes over the last 3 years eg. additional exclusions applied, special conditions imposed or additional conditions imposed (including those requested by your organisation):

| | |
|------------------------------|-----------|
| 2000 | Comments: |
| | _____ |
| <input type="checkbox"/> Yes | _____ |
| <input type="checkbox"/> No | _____ |
| 2001 | Comments: |
| | _____ |
| <input type="checkbox"/> Yes | _____ |
| <input type="checkbox"/> No | _____ |
| 2002 | Comments: |
| | _____ |
| <input type="checkbox"/> Yes | _____ |
| <input type="checkbox"/> No | _____ |

(b) Does the wording on your policy specifically state that the insurance is based on an:

- Occurrence basis (refer Definitions at Appendix A)
- Claims made basis (refer Definitions at Appendix A)
- Unsure

iii) Directors and Officers Insurance (refer Definitions at Appendix A):

| | | | |
|---|-------|----|-------|
| Limit of Indemnity (refer Definitions at Appendix A): | 2000: | \$ | _____ |
| | 2001: | \$ | _____ |
| | 2002: | \$ | _____ |

| | | | |
|-----------------|-------|----|-------|
| Excess Amounts: | 2000: | \$ | _____ |
| | 2001: | \$ | _____ |
| | 2002: | \$ | _____ |



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

(b) Have there been any other policy changes over the last 3 years eg. additional exclusions applied, special conditions imposed or additional conditions imposed (including those requested by your organisation):

2000

Comments:

Yes

No

2001

Comments:

Yes

No

2002

Comments:

Yes

No

(b) Does the wording on your policy specifically state that the insurance is based on an:

Occurrence basis (refer Definitions at Appendix A)

Claims made basis (refer Definitions at Appendix A)

Unsure

(c) Does your Directors and Officers policy provide any protection to your organisation as a legal entity in addition to cover for the individual directors and officers:

Yes No

Comments:

(d) Does your Directors and Officers policy include an extension for Employer Practices Liability:

Yes No

Comments:



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

If No, do you have a separate policy that provides Employer Practices liability protection:

† Yes † No

Comments: _____

iv) Personal Accident and Injury Insurance (refer Definitions at Appendix A):

| | 2000 | 2001 | 2002 |
|---|-------------|-------------|-------------|
| ☞ Death and Permanent Disability (Capital Benefits) \$ limit insured to: | \$ | \$ | \$ |
| ☞ Loss of Income Insured to: (a) Weekly benefit: | \$ | \$ | \$ |
| (b) Maximum benefit: (No. of weeks) | | | |
| (c) Excess period: (No. of days) | | | |
| ☞ "Non-Medicare" Medical Expenses: | 2000 | 2001 | 2002 |
| (a) % of benefit: | % | % | % |
| (b) Limit to any one injury: | \$ | \$ | \$ |
| (c) Excess amount: | \$ | \$ | \$ |



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

(c) Have there been any other policy changes over the last 3 years eg. additional exclusions applied, special conditions imposed or additional conditions imposed:

2000

Comments:

Yes

No

2001

Comments:

Yes

No

2002

Comments:

Yes

No

D. PLEASE PROVIDE DETAILS ON HISTORY OF CLAIMS

Please provide details in the table below or alternatively attach correspondence from insurance company regarding claim history and policies your organisation managed for the last 5 years.

Public Liability:

| Period of Insurance (ie. last 5 yrs) | No. of Claims | Amount Paid | Amount Outstanding (see definition at Appendix A) |
|---|---------------|-------------|--|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Organisation Number: _____

Name of Ernst & Young Interviewer: _____

Professional Indemnity:

| Period of Insurance (ie. last 5 yrs) | No. of Claims | Amount Paid | Amount Outstanding (see definition at Appendix A) |
|---|---------------|-------------|--|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Directors and Officers:

| Period of Insurance (ie. last 5 yrs) | No. of Claims | Amount Paid | Amount Outstanding (see definition at Appendix A) |
|---|---------------|-------------|--|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Personal Accident and Injury:

| Type of Claim | No. of Claims | Amount Paid | Amount Outstanding (see definition at Appendix A) |
|--|---------------|-------------|--|
| Death and Permanent Disability (Capital Benefits) | | | |
| Please indicate period of Insurance (ie. the last 5 yrs) | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Organisation Number: _____

Name of Ernst & Young Interviewer: _____

| | | | |
|--|--|--|--|
| Loss of Income | | | |
| Please indicate period of Insurance (ie. the last 5 yrs) | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Medical Expenses | | | |
| Please indicate period of Insurance (ie. the last 5 yrs) | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Others Types of insurance – Advise claims in last 5 year:

| Type of Insurance | Year of Claims | No of Claims | Amount Paid | Amount Outstanding (see definition at Appendix A) |
|-------------------|----------------|--------------|-------------|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

E. INFORMATION PERTAINING TO CURRENT RISK MANAGEMENT PROCESSES

E1 Does your sport have a documented Risk Management Program in place that includes policies and procedures for identification, evaluation and control of risks in your sport?

Yes No

Comments: _____

If yes, which levels of your sport use these documented policies and procedures?

National Body

State Associations

Local clubs

Unsure

Comments: _____

E2 Does a particular person within your organisation have responsibility for risk management as part of their job description?

Yes No Job title: _____

Comments: _____



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

If yes, which levels of your sport have Risk Management as a defined responsibility and included in their management portfolios?

- National Body
- State Associations
- Local clubs
- Unsure

Comments: _____

E3 Does your sport keep a record of all incidents that occur and review these incidents with the purpose of identifying strategies to improve safety?

- Yes
- No

Comments: _____

If yes, which levels of your sport keep such records?

- National Body
- State Associations
- Local clubs

Comments: _____



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

E4 If your sport has a documented Risk Management Program in place is it periodically reviewed and evaluated for effectiveness, with updates being made as appropriate? If it is, please indicate by whom and their position held in your sporting organisation.

Yes No If yes, who: _____ Job title: _____

Comments: _____

E5 What do you see to be the main obstacles to introducing a whole of sport Risk Management program within your sport?

Comments: _____

E6 What additional resources do you believe would assist you in introducing a whole of sport Risk Management program within your sport?

Comments: _____

E7 Would you be prepared to allocate resources to undertake a review and audit of these risk management processes or implement these types of policies, if it had the potential to improve your current insurance situation.

Yes No

Please comment: _____

F. DO YOU CURRENTLY HAVE ANY OTHER TYPES OF INSURANCES

- Property/stadia/club house Motor vehicle
- Workers compensation High performance sports teams
- Contingency/prize indemnity insurance Cancellation and abandonment insurance
- Other _____

Please give general details of any extra insurances and experiences in recent years (ie. Premiums, excess and changes therein etc):

G. GROUP POOLING SCHEME

If it was possible to enhance the current insurance situation of your sporting organisation through the use of Group Pooling (Refer Definition at Appendix: A) or similar insurance schemes, would your organisation consider being involved in such a program.

- Yes No Unsure

What factors do you believe must be considered and more thoroughly researched before you would comfortably commit to such a scheme:

End of Questionnaire

Thank you for your participation.

Please return completed questionnaire to Sales Nischal at:

email: salesh.nischal@ernstyoung.com.au

Fax: (02) 9248 5829

Post: Ernst & Young
Attention: Sales Nischal
GPO Box 2646
SYDNEY NSW 2001

“APPENDIX: A”

Terms and Definitions

Public Liability Insurance

Indemnifies the insured against legal liability incurred due to negligence that results in death, injury, or damage to property of a third party. An example of a claim under this policy would be a club providing unsafe premises in which to participate and as a result an injury occurs.

Public liability insurance excludes liability resulting from breach of professional duty.

Professional Indemnity

Indemnifies the insured against claims for compensation for breach of professional duty by way of act, error or omission. An example of a claim under this policy would be a coach giving incorrect instruction that results in injury.

Directors and Officers Insurance

Indemnifies the insured directors and officers of the organisation against “Wrongful Acts” committed in their respective capacities within the organisation. “Wrongful Act” includes breach of trust, breach of duty, neglect, error or omission. An example of a claim under this policy would be directors allowing an organisation to continue to trade whilst insolvent.

Directors and Officers insurance excludes liability relating to physical injury, death or damage to property.



Organisation Number: _____

Name of Ernst & Young Interviewer: _____

Personal Accident and Injury Insurance

Provides benefits as agreed at the time of taking out the policy to those insured should they be injured as a result of participation in the sport (negligence is not an issue). Benefits provided may include Death and Permanent Disability, Loss of Income and Non-Medicare Medical Expenses. An example of a claim under this policy may be a player injuring his knee during a game and thereby incurring physiotherapy expenses and losing income due to not being able to attend his normal occupation.

Sports Participation Risk

Included in an insurance policy document is various exclusions, which are usually contained under an "Exclusions" section in the document. Liability insurance policies can include an exclusion relating to "Participating in a Sporting Event", which is generally not appropriate for a sporting organisation.

Limit of Indemnity

The Limit of Indemnity under a liability policy is the maximum amount for which the policy will indemnify your organisation for any one event eg. a common limit of indemnity is \$10,000,000.

Employers Practices Insurance

Employers Practices Insurance provides protection in regard to losses which the insured may be legally required to pay, arising out of a claim associated with employment practices. Examples are discrimination, unfair dismissal, workplace harassment, breach of contract.

History of Claims – Amount Outstanding

The provision made by insurers for amounts not yet paid on a claim but expected to be paid in due course.

Capital Benefits

Capital Benefits is another terminology for Death and Permanent Disability Benefits. These are lump sum benefits paid as compensation for injuries that result in death or permanent disablement.

Types of Liability Insurance Wordings

Occurrence Basis

With an occurrence basis, the insurer that provides liability cover at the time of the incident that instigates the legal action will respond to the claim. The policy will contain wording along the lines of “the insurer will pay a claim for legal liability if the event that gives rise to the claim occurs during the period of insurance.”

For example, an incident occurs in 1999 that results in injury. In 2002 legal action is instigated claiming that negligence was involved. The insurance policy applying in 1999 would respond to that claim.

Claims Made Basis

With a claims made basis there are two issues to consider when determining whether or not a policy will respond to a claim; namely when the claim was made on the insured, and when the incident that led to the claim occurred. With such a policy the wording will include reference to when the claim is made, rather than focusing only on when the incident that led to the claim occurred. Wording will be along the lines of “the insurer will pay for loss which the insured is legally liable to pay on account of any claim first made against the insured during the period of cover, and which is notified to the insurer during the period of cover.”

A claims made basis will also contain a “Retroactive Date”. The incident that led to the claim must have occurred after the retroactive date specified in the policy for the insurer to respond to the claim i.e. the incident must have occurred after the retroactive date and the claim must have been made during the period of cover of the policy.

For example, under a claims made wording, in the case of an incident occurring in 1999 but a claim not being made until 2002 the policy in place in 2002 would respond to the claim but only if the retroactive date specified in the policy was prior to the date of the incident leading to the claim.

Note

Generally Public Liability policies are occurrence wordings and Professional Indemnity and Directors and Officers policies are claims made wordings, but this will not necessarily always be the case.

Other Definitions

Member-to-Member Liability

Member to member liability in relation to a liability policy allows one of the parties insured under a liability policy to take legal action against another of the parties insured under the same policy, with the cover still applicable to indemnify the defendant.

For example, a player insured under an organisation's liability policy can take legal action claiming negligence against a coach insured under the same policy and the coach is indemnified under the policy.

Group buying / pooling arrangements

Group buying or pooling refers to where the number of insured parties (eg.. individuals, organisations) under an insurance policy are increased to create a larger insurance pool. Examples of group insurance are where a whole team is insured for personal accident rather than each player arranging their own cover, or where a sport may pool its state associations together to create a national insurance program. It could go even further to include, for example, combining numerous sporting organisations into the one insurance pool – in all examples the same principle applies, namely increasing numbers to create a larger pool of insureds and premiums.

The premium calculation on these pooling arrangements is generally based on the underwriting result (i.e. claims paid compared to premium received) of the total pool created. The creation of a larger insurance pool is generally considered likely to bring about more favourable premiums, but it needs also to be appreciated that as this method involves the sharing of risk it is possible that those with good claims results may be subsidising those with less favourable claims results.

Pooling arrangements do not necessarily mean that all people that are covered by insurance within the pool would be paying the same insurance premium. It would be possible to have a pooling arrangement whereby various identified groups within the pool pay different insurance premium rates. Pooling also creates opportunities to consider some level of self-insurance under the insurance program.