

## Insurance for Molestation/Sexual Abuse

Over recent years the Community expectation around organisations and their duty of Care for Children and others at Risk in our community has been increasing and Public awareness of this significant issue continues to grow.

This increased awareness has resulted in Royal Commissions at State and Federal levels looking at ways to prevent this abuse and the multitude of issues it causes. This has also resulted in the Media exposing these issues on a wide range of fronts.

There has also been legislation enacted in most States and Territories that is designed to protect Children and the instigation of severe penalties for those who don't act appropriately when an issue is uncovered.

### **But all of our People have Working With Children Checks. Isn't that all we need to do?**

No. The Working With Children Checks or Police Checks that are available don't fully address the issues of your legal obligations. Businesses that have significant activities involving children should also have a Child Protection Risk Management System in place. This is a legal requirement in most state jurisdictions. These systems address such issues as staff and volunteer selection, reporting of incidents & supervision of children, to name just a few.

### **What about our Insurance?**

Since the 1980's most insurers in Australia have excluded Sexual Abuse/Molestation cover from their policies either within the Policy Wording or by Endorsement for clients in higher risk industries. But cover is available from a few insurers.

### **What can be Insured?**

No insurer will cover a Criminal conviction. But insurance is available for Civil Matters brought against your organisation where there is an allegation of negligence which resulted in a criminal matter occurring under your watch and/or a failure to act appropriately when an incident occurred.

Availability of this cover is limited to just a few insurers and is available in a few different formats.

Generally cover can be included in a Public Liability policy on either an occurrence or claims made basis (both options have their advantages and disadvantages). But once you commence with one type of cover great care needs to be taken if the cover changes, to make sure historic cover isn't lost.

Also limited cover may be available via a Directors & Officers or Management Liability policies, but this is likely to only cover legal defence costs only. *Professional Insurance advice is critical to ensure the right cover is in place.*

### **What levels of cover can I get?**

Most policies have a sub limit of cover for any one event and per year, this limits the amount an insurer will pay for this type of claim and is often different to the cover for other claims under your Public Liability policy.

### **What is the expectation for Documentation?**

In most states and territories organisations are expected to have a Working with Children policy that covers a range of issues.

This document needs to include a range of Risk Management issues, including selecting staff and volunteers, supervision, checks and balances during their work and how a complaint will be dealt with should one occur.

If your organisation has a Known Offender then generally you won't have any insurance for this person and you will need to very carefully manage the risk this poses to Children whilst in your care.



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*For access to Working with Children Policy Templates and risk management assistance please contact GJIC. We can help you work through these important issues.*

### **How common are claims?**

This is difficult to answer because these sort of incidents often take many years to reveal themselves (The findings of the Current Royal Commission into Institutional Abuse suggest 25 years on average), what is clear is that there are real risk of this occurring in any organisation working with Children.

### **Conclusion**

In running an organisation that has children in attendance, Molestation insurance cover should be at the top of your list. In the event of an allegation or claim this cover may be the difference between your business/organisation surviving or not.

GJIC have a long history in management of these types of insurances and are here to help you work through the myriad of issues that are presented to ensure you have the right cover in place.

We have a number of free resources available to our clients to assist them with this complex and difficult task.

Your risk management is your first defence against an offence occurring and significantly damaging your business reputation as well as the trauma of an incident of this nature to all concerned.

*This article is not intended to be advice and you should not rely on it as a substitute for any form of advice. Please review your policy wording carefully and contact GJIC for further information.*



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