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Professor Brin Grenyer, Chair
The Psychology Board of Australia
Via email: psychconsultation@ahpra.gov.au

Level 13, 257 Collins Street
Melbourne VIC 3000
PO Box 38
Flinders Lane VIC 8009
T: (03) 8662 3300
F: (03) 9663 6177
psychology.org.au

To Professor Grenyer,

Review of professional indemnity insurance arrangements

The Australian Psychological Society (APS) is the national professional organisation for psychologists, with over 23,000 members across Australia. We welcome the opportunity to respond to the Psychology Board of Australia's consultation paper 30 - Review of the Professional Indemnity Insurance (PII) arrangements registration standard.

The APS has been assisting its members to obtain appropriate insurance cover for their practice as psychologists for an extended period of time. Over more than 25 years the APS has consulted and worked closely with different insurance brokers to ensure that the best possible professional indemnity cover is available for its members. In April the APS Board approved the appointment of Aon Risk Services for another term as its recommended PII provider. In preparing our response to this Consultation paper we have sourced industry specific knowledge from Aon staff.

The APS is largely supportive of the proposed registration standard published by the PsyBA, and wants to ensure that practitioners and the public interest are adequately protected by maintaining a minimum level of cover. The APS has responded to the consultation paper's 12 questions below.

1. Which is the best option for reviewing the PII standard?

Option 1 – the status quo or Option 2 – the revised standard.

The APS supports many of the features of the existing standard but also appreciates that there may be situations where some psychologists may be allowed to be exempt from being required to have professional indemnity insurance.

The APS recommends an Option 3 which maintains the requirement of a minimum level of cover and makes an amendment to "appropriate" run-off cover. Option 3 would also allow the introduction of exemptions for psychologists whose work does not have contact with the public, however the criteria for exemptions need to be clear and specific.

2. Are there specific areas of the current standard that are not working well and would the proposed revised standard address the issues?

As mentioned in the response to question 1, the APS recommends amendments that include "appropriate" run-off cover and the introduction of exemptions for psychologists who do not have contact with the public providing the criteria are clear and specific.

3. What is the best option for exemptions from the PII standard?

Option 1 – no exemptions, Option 2 – introduce exemptions

The APS supports the concept of introducing exemptions as proposed in the Consultation Paper under Option b. paragraphs 47-53.

4. Are there other specific impacts (positive or negative) for practitioners, employers, PII providers, clients/consumers, the Boards and AHPRA that have not been identified in this paper?

Yes. Paragraph 39 of the Consultation Paper suggests that, *"The proposal to remove the minimum level would, in practice, not have a significant impact as psychologists are already required to take out an appropriate level of cover based on their scope of practice."*

The statement above could cloud the decision-making process of a psychologist in determining alone what "appropriate" is for the risks they face in their activities. Psychologists rarely have insurance industry or legal data at hand to help in the decision-making process to determine an adequate limit. This could facilitate the choice of inappropriate cover with a low limit leading to inadequate cover in the event of a large claim, potentially causing bankruptcy for the psychologist and brand damage for the industry.

PII arrangements that are wholly negotiated between an insurer and an insured may not necessarily include public interest considerations. Insurance products that are required by regulating bodies to include standardised terms or forms of cover are both more easily accessible and understood by professionals and ensure a minimum standard of public interest protection.

It is also highly likely that removing a minimum level of cover could also encourage short-term insurance providers to offer under insured products that would undermine the existing policies offered, which in turn would put upwards pressure on the premiums for those who are appropriately insured.

As the experts in the field, insurers and insurance brokers routinely review the level of cover offered to policy holders to make sure that it is sufficient to cover the types of damages claims that may be lodged. For example, for the Aon facility in year 2000 the \$500,000 level of cover was removed from offer, and in the year 2007 the \$1 million level of cover was removed. The current minimum level of cover available through the Aon facility is \$2 million, which is appropriate and should be maintained.

5. Is the content and structure of the proposed revised PII arrangements registration standard helpful, clear, relevant and workable?

The proposed revised PII arrangements registration standard is clear, relevant and workable apart from the suggestion to remove the requirement for a minimum level of cover.

6. Is there any content that should be changed or deleted in the proposed revised PII arrangements registration standard?

Yes. As stated above, the APS strongly recommends maintaining a minimum level of PII cover as the removal of a minimum level of public liability cover may lead to under-insured psychologists and ultimately reduce the compensation mechanism in place to protect the public.

The idea that psychologists can conduct a meaningful objective self-assessment of their practice gives misplaced credence to psychologists' understanding of the professional indemnity insurance industry.

As part of the objective self-assessment process, psychologists are recommended to seek advice from professional associations and industrial organisations. It is important to be aware that the Financial Services Reform Act (FRSA) (2001) allows only suitably credentialed staff to provide financial advice. This tends to be staff employed by companies working in the finance industry such as insurers and insurance brokers, not staff working at professional associations and industrial organisations.

Also, the insurance company staff who respond to psychologists' insurance enquiries are frequently not credentialed under the FRSA. The level of insurance cover ultimately has to be an individual psychologist's choice. Even in low risk areas of practice, given the wide range of clients that psychologists work with, they are still just one client away from a potential claim.

If the PsyBA wants psychologists to have adequate cover as outlined in the Consultation Paper, then it is important for the best interests of the public to maintain the minimum level at \$2 million.

7. Is there anything missing that needs to be added to the revised draft PII arrangements registration standard?

Not that we can identify at this stage.

8. Is there anything else the National Board should take into account in its review of the PII arrangements registration standard, such as impacts on workforce or access to health services?

The APS believes that the idea of applying a common professional indemnity insurance standard to different professions is not well-founded and does not allow for the clear distinctions in practice across the six professions.

Aboriginal and Torres Strait Islander Health Practitioners, Chinese Medicine Practitioners, Chiropractors, Occupational Therapists, and Optometrists practise in very different ways from Psychologists which brings different levels and types of risk exposure. To include them all under the same professional indemnity insurance standard would be more a matter of convenience than relevance. The APS supports the idea of a distinct professional indemnity insurance standard for psychologists.

9. It is proposed that the draft revised PII registration standard will be reviewed every five years (or earlier if required) as the content is likely to be reasonably settled and stable after this review. Do you have any feedback about this proposal?

The APS thinks that is a reasonable approach.

10. Do you have any other comments on the revised draft PII arrangements registration standard?

Yes. Although the APS supports mandatory professional indemnity insurance for practising psychologists, our concern is that in rare circumstances (following the successful but expensive defence of a vexatious or otherwise unmerited claim) a psychologist may not be able to obtain insurance through no fault of his or her own, yet still be a competent and capable psychologist otherwise able to practise.

There have been instances of psychologists making a claim against their insurance policy to defend themselves at a PsyBA hearing and ultimately having the complaint dismissed. At renewal time their insurance company has not offered renewal terms because they made a claim.

The APS would appreciate comment from the PsyBA as to the likely procedure to be followed in such circumstances to support the continued practice of psychology by such a practitioner.

11. Do you have any feedback on the proposal to retire the PII guideline and adopt a common PII fact sheet used by other National Boards?

Expanding on the response to question 8, retiring the PII guideline and generating a common PII fact sheet would likely do a disservice to psychologists who face specific issues relevant just to their profession.

12. Do you have suggestions for guidance that should be included in a common PII fact sheet, in addition to guidance already included or proposed to be included in this paper?

The APS suggests that the PsyBA maintain a separate PII fact sheet.

Thank you for the opportunity to respond to these important proposals. The APS would be happy to provide further comment about these issues specifically, or for further information please contact me on 03 8662 3300.

Regards



Dr Louise Roufeil FAPS FCHP
Executive Manager
Professional Practice



Mick Symons FAPS FCCOUNP
Manager
Member Services and Ethics