

## UNDERWRITING UPDATE

JUNE 2021

### Ansvar announcement with respect to Physical and Sexual Abuse (PSA) Insurance coverage

Ansvar is a specialist insurer with a history of expertise in providing Physical and Sexual Abuse coverage (PSA), which protects organisations from allegations and/or claims of physical or sexual abuse as well as provides compensation to the victims of abuse. The PSA insurance protection is important for the clients in our core sectors – it enables them to operate and deliver essential services to our community including delivery of services to the most vulnerable (i.e. children, persons with disabilities, the disadvantaged, the aged and others).

Being complemented by our strong risk management and safeguarding initiatives, the provision of PSA cover on occurrence wording is an integral part of Ansvar's value proposition, and dates back to the Ecclesiastical Insurance Group acquisition of Ansvar Australia in 1998.

This Underwriting Update follows Ansvar's previously issued Risk Alert #9 (January 2021), entitled *Safeguarding to Prevent Sexual Abuse*, with the update on the PSA insurance cover changes as well as risk management and safeguarding strategies for our brokers and clients. For a copy of that Risk Alert, please refer to the Ansvar's website ([www.ansvar.com.au](http://www.ansvar.com.au)).

#### Changing PSA risk landscape

It is important to acknowledge that both the risk landscape of physical and sexual abuse in organisations as well as PSA insurance cover in Australia have fundamentally changed.

Over the past 24 months, Ansvar has seen substantial increases in both the frequency and the quantum of PSA claims from sexual abuse victims. These are driven mainly by court judgments and settlements arising from the continuing preference for civil litigation over redress to resolve historical incidents. The vast majority of the PSA claims are legacy portfolio issues, emanating from events that had occurred predominantly twenty to thirty years ago.

Sexual Abuse claims no longer have time limitations to the bringing of litigation, and the reopening of past settlements

may be allowed across most states, driven by the post Royal Commission legislative reforms. Further, employers are now more likely to be found vicariously liable for criminal acts of their employees, with organisations expected to satisfy the higher thresholds of 'reasonable care'. Past claims that were typically brought against government entities, are now often also brought against the governments' services providers. Further, the quantum of PSA claim settlements is increasing, driven by the recommendations of Royal Commissions of restitution and justice to abuse survivors in a manner that is at least comparable to that of other injured persons.

The PSA exposures continue to exist across our core sectors. These require both a comprehensive insurance cover as well as strong risk management capabilities to protect organisations and vulnerable people.

#### Changing PSA insurance landscape

The capacity of PSA insurance in Australia is rapidly reducing, driven by heightened inherent risk of physical or sexual abuse in present day settings, increase in the cost of PSA claims, changing risk appetites of insurance businesses, as well as publicly available information around significant strengthening of insurers' PSA claims provisions driven by abuse matters.

We are also seeing the reduction in PSA coverage through restrictive 'claims-made' covers provided by most of the insurance market participants, 'silent' General Public Liability covers where abuse cover is implied but yet to be tested in courts, as well as opportunistic insurance businesses (both insurers and underwriting agencies) with little evidence of the PSA claims management expertise, moving in and out of the Australian PSA market.

We would like to highlight these matters for our brokers and clients due to highly specialised nature of PSA insurance wording, as well as the sensitive nature of PSA claims, which need to be carefully managed by the experienced specialists in order to protect organisations' reputation and recompense the abuse survivors.

## PSA insurance on occurrence vs. claims-made wording

Ansvar has been consistently providing PSA cover and paying claims for our core sector clients for almost a quarter of a century. Ansvar provides market-leading PSA cover on 'occurrence' policy wording, which provides our clients with coverage certainty for events happening during the period of insurance, regardless of the time lapse before claims are actually made on the client. This is important, as majority of abuse claims are reported years after the actual incident (in some cases more than 30 years after the abuse occurred).

Most of Ansvar's competitors in our sectors issue 'claims-made' PSA covers. The 'claims-made' wording only covers the client for claims made and notified during the period of insurance – i.e. there is no cover for events that have occurred but have not been reported to the insurers during the period of insurance!

Under claims-made policies, in order to be covered after the expiry date of the insurance policy for events that have occurred during the period of insurance, but for which the client is not aware – clients need to continue to purchase PSA claims made cover including retroactive PSA cover from the start date of the original policy. This cover may not be available and/or denied to be provided to the client by the insurer at any time in the future!

## Ansvar PSA insurance changes

Ansvar provides PSA cover for clients predominantly in the faith, community, childcare, disability care, allied health, education and age care segments. Based on our claims insights we have observed a number of emerging patterns, and as a result, have implemented a number of key changes in respect of Ansvar's PSA Portfolio to ensure the right structure, sustainable coverage and pricing. These changes are required so that Ansvar continues to provide a sustainable, market-leading PSA insurance cover:

- 1. Excluded activities** – Ansvar is no longer providing PSA cover in respect of certain Out of Home Care activities listed below, both for new and expiring business. Excluded Out of Home Care activities include foster care, kinship care, permanent care, group homes and crisis accommodation in a family home setting. These risks will no longer be renewed following the expiry of the respective policies.
- 2. PSA Premiums and excesses** – Ansvar premium pricing and excesses are increasing in order to maintain the ongoing sustainability of PSA cover. We are also changing our underwriting approaches to enhance alignment with the key PSA exposure drivers.
- 3. PSA Insurance limits** – Ansvar is revising and generally reducing its annual aggregate limits with respect to PSA cover.
- 4. Higher-risk sectors** – Ansvar may provide claims-made PSA insurance cover as well as appropriate PSA retro cover for clients in higher-risk sectors, as an alternative to occurrence based PSA coverage. We note that this does not extend to certain Out of Home Care activities excluded under point 1 above.

- 5. PSA Cover for childcare sector operators** – Ansvar confirms that our PSA cover is aligned to the requirements of the National Quality Framework, Education and Care Services Regulations 29 and 30, *Insurance Information* (as updated in September 2020).
- 6. PSA Questionnaire** – we have updated our current PSA questionnaire to capture additional information with respect to the PSA exposures as well as organisational risk management and safeguarding.
- 7. Expert Risk Management support** – Ansvar offers leading risk management advice, training, resources and Risk Alerts to support brokers and clients to build capabilities to manage risks in our sectors. Our next Risk Alert – *Safeguarding to Prevent Physical and Sexual Abuse* will be issued in June 2021, and will provide specialist insights and resources to assist our clients to navigate PSA risks and build safeguarding strategies. Please speak to our Ansvar Risk team to discuss safeguarding risk support services ([info@ansvarrisk.com.au](mailto:info@ansvarrisk.com.au)) or visit [www.ansvarrisk.com.au](http://www.ansvarrisk.com.au)

The protection of vulnerable members of the community goes to the very heart of Ansvar's mission.

Ansvar has been underwriting PSA cover for over two decades, and we are committed to continue providing market-leading PSA offering, both insurance and specialist risk management services, for our core sectors as part of the Ansvar's value proposition into the future.



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