



Responding to risk – insurance and improvement strategies

## **The role of the Professional Standards Councils**

*Iain Summers*



# Professional standards schemes

Legal instruments that limit the civil liability of association members and...

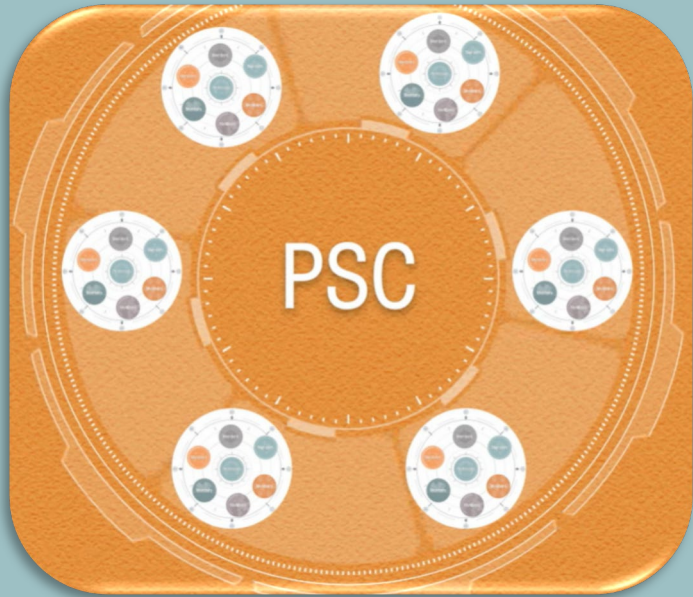
...commit occupational associations to continuously improve the professional standards of their members, to protect the consumers of their services.

## Regulatory Benefits



## Consumer Protection

# The regulatory relationship



- **Occupational associations** regulate and monitor compliance obligations and conduct of their members through systems that protect consumer interests
- **Councils** encourage, advise and assist associations in the development of regulatory capacity
- **Supervisory assurance** is provided by the associations through annual compliance reporting to the Councils - monitoring associations' **compliance with risk management strategies** is an explicit statutory function of the Councils.



# Risk management essentials



**Assess the nature  
& extent of risks to  
the achievement of  
objectives**



**Agree the risk  
appetite**



**Consider likelihood  
& consequences of  
occurrence**



**Identify current  
risk mitigation  
controls**



**Develop mitigation  
strategies, where  
risks remain higher  
than appetite**



# Consumer harms

**Consumer harms occur when adverse outcomes are experienced by consumers of the services of the members of the occupational association, which lead to financial loss or impairment of well-being.**





# Risk management techniques should include:

**Control of entry standards**

**Codes of ethics and conduct**

**Compulsory continuing professional development (CPD)**

**Complaints system**

**Discipline systems**

**Peer review processes**

**A risk awareness culture that will identify, assess, and manage emerging risks.**



# Councils' expectations

The Councils expect to see in associations' scheme applications:

- their risk assessments together with

- their risk mitigation procedures to minimise consumer harms, and

- development of their own regulatory capacity to monitor how effective is the risk management.

# Practical measures & metrics:

## Quantitative: trends over time in -

- CPD activity and attendance
- complaints received, with analysis of those upheld or dismissed, and responses to those upheld
- Professional indemnity claims made and finalised, similarly analysed
- Discipline of members for breaches in codes of practice

## Qualitative:

- Member surveys
- A compliance plan for scheme obligations







# Sources of data

Follow the link on the [Councils' Resource Centre](#) page.

PROFESSIONAL STANDARDS COUNCILS

ADVICE FOR SCHEME ASSOCIATIONS   SCHEME APPLICATION FRAMEWORK   RESEARCH LIBRARY MODERN PROFESSIONALISM   NEWS AND PUBLICATIONS   CONSUMER INFORMATION

## Advice for scheme associations

Home > Advice for scheme associations > Resource centre

### Resource centre

We have developed a range of resources to help associations respond to their self-regulatory obligations, submit Professional Standards Scheme applications, and manage their ongoing compliance with professional standards legislation.

For more information, [speak to your dedicated Professional Standards Scheme Manager](#).

**Guidelines, templates and advice**

PROFESSIONAL STANDARDS COUNCILS

## Guidance note on use of data sources

For professional standards schemes under professional standards legislation

Published March 2022



# Professional Standards Act 1994 (NSW)

## Section 37 - Reporting

- An occupational association must provide information to the Council concerning its risk management strategies if requested to do so by the Council.
- An occupational association must provide an annual report to the Council as to the implementation and monitoring of its risk management strategies, the effect of those strategies and any changes made or proposed to be made to them.
- The occupational association's annual report is to be incorporated into the Council's annual report in such form as the Council determines.



# Annual Report 2020-21



## Causes

1. Negligence – Communication/advice/administration
2. Technical issues
3. Lack of skill and competence



83%

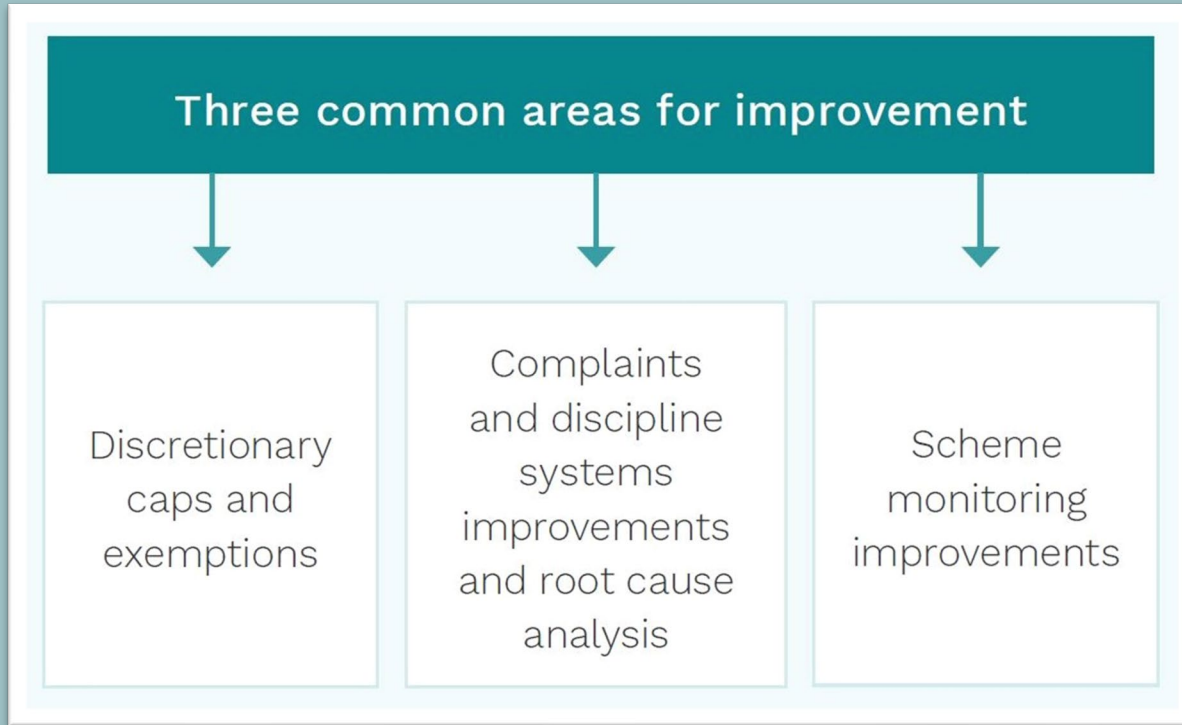
of these associations incorporated elements of root cause analysis into risk management strategies during 2020.

# Trends in complaints and claims



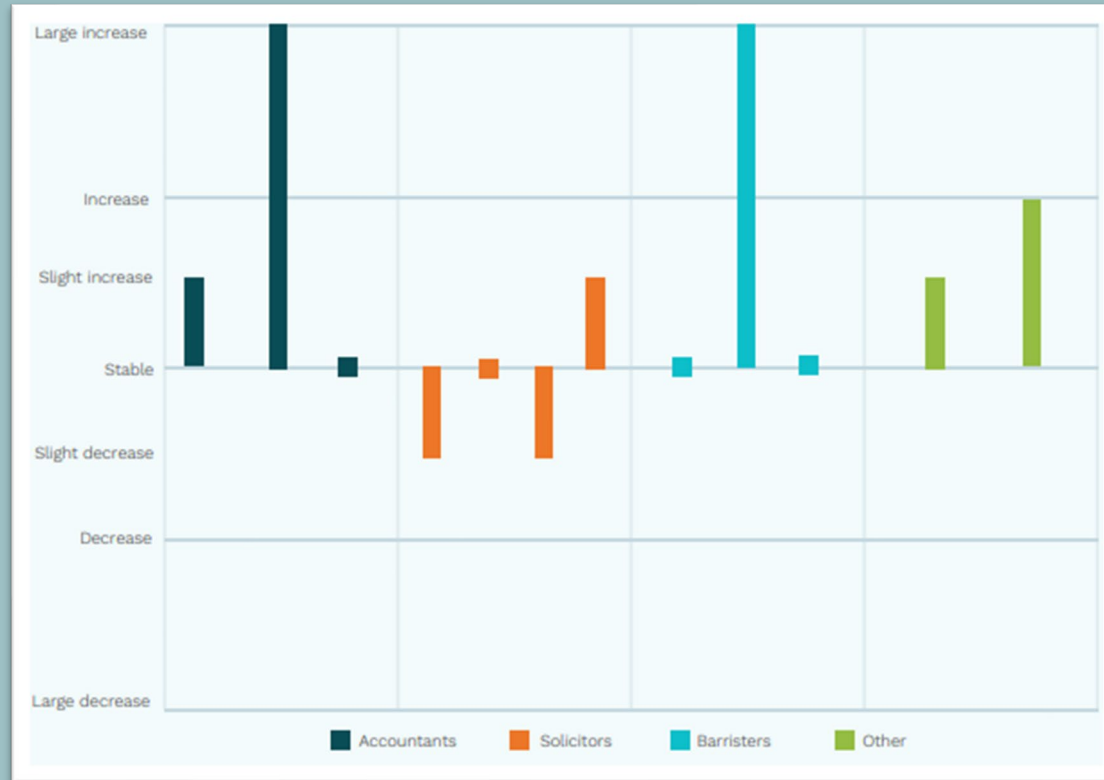


# Areas for improvement





# Professional indemnity insurance costs (average premiums) compared 2019-2020





# Continuous improvement actions



**Collect and analyse data, intelligence and information (retrospective and prospective eg horizon scanning)**



**Open a dialogue with insurers - be capable of presenting the risk profile and risk ratings for their profession or occupation, and show how the data evidences the outcomes**



**Seek and use the councils' expertise**



**Collaborate with other associations and regulators**



**Establish a claims monitoring committee**



# Professional Standards Act 1994 (NSW)

## Section 35 - Monitoring

- An occupational association may establish a committee for monitoring and analysing claims made against its members for occupational liability or two or more occupational associations may establish a common committee for that purpose.
- It is not necessary for all the committee members to be members of the occupational association or associations concerned. (For example, members may include representatives of insurers.)
- An occupational association may, through such a committee or otherwise, issue practice advice to its members with a view to minimising claims for occupational liability.





# Recap

- Risk management **commitment** by associations
- Risk management **performance** of associations – annual compliance reporting
- Improving professional standards – the **partnership** between the association as regulator and the Councils as meta-regulator
- Impact of risk management **performance** on professional indemnity insurance



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**THANK YOU**