

Child Abuse Insurance for the Professional Performing Arts Sector

What is child abuse insurance cover?

Broadly speaking, this insurance covers your costs incurred (such as legal costs) in defending a claim of sexual abuse, and/or your legal liability to pay damages as a result of any claim. This depends on the type and extent of your coverage.

Does public liability insurance cover this?

Each organisation will need to check its own insurance policy to determine exactly what is covered.

Some public liability insurance policies do indeed indemnify companies against defence costs incurred in defending a claim brought against the company alleging negligence of the company. However, such policies may not:

- Cover any legal liability to pay damages/compensation.
- Provide an adequate level of cover (i.e. you may be insured for only \$2m, but be required to be insured for \$5m).
- Provide specific enough personal injury cover (i.e. a funding body may require personal injury cover to include shock and mental injury).

Child abuse cover can either be explicitly expressed in the policy (affirmative cover) or as silent cover:

- **Silent cover** is where the policy wording is silent – i.e. there is no child abuse exclusion, and the policy would respond to all personal injury that is not otherwise excluded.
- **Affirmative cover** is where the policy wording has a specific cover and conditions for child abuse.

Should my organisation obtain child abuse and molestation cover?

We cannot provide advice for organisations and this document does not seek to do so. You should discuss this directly with your insurance advisor.

If the company's public liability insurance provides indemnity against defence costs, companies may feel like this is sufficient cover for the risk presented. The rationale here is that the company should have adequate policies and procedures in place to prevent child abuse from occurring, thereby minimising the risk to a point that additional insurance is not necessary. The public liability is used in situations where



someone *claims* to have been abused, and the company must defend against this claim, which can of course occur whether any abuse has occurred or not.

If for whatever reason the existing policies and procedures failed to prevent child abuse from occurring and the company was found to be negligent, additional specific child abuse and molestation cover would cover legal liability to pay compensation.

What state funding bodies currently require funded companies to hold this insurance?

Currently out of the state and territory funding agencies in Australia only Creative Victoria requires funded organisations to hold insurance coverage that provides indemnity for liability for child abuse if they provide services to children. This is part of a whole of Victorian Government requirement of funded organisations that provide services to children, therefore many other departments, such as the Department of Education, also require this of organisations they work with or fund. Other states are looking at this and may do the same in the future.

Obtaining child abuse cover

Many public liability products currently extend cover to child abuse insurance (as discussed above) and may be suitable for your needs.

However, some organisations may have additional requirements placed upon the level of insurance (such as those from Creative Victoria) which requires cover of \$5m, rather than the standard \$2m. Reports from organisations who currently hold this level of cover indicate that it is a complicated and lengthy process to put everything in place to have cover approved. This is exacerbated by the fact that only a handful of insurers in Australia provide this level of cover.

ANSVAR is an underwriter that offers child abuse cover, and theoretically any insurance broker (including your own) will be able to broker this insurance for you, although some brokers will have more experience and/or a better relationship with ANSVAR, such as Honan Insurance. We are not endorsing or recommending ANSVAR or Honan but offer them as examples of where cover has been secured by other organisations.

Bravehearts (<https://bravehearts.org.au/>) is a non-profit organisation dedicated to the prevention and treatment of child sexual abuse and can assist with ensuring your organisation is better prepared for this process through things such as a company audit, and assistance with writing policies and procedures, implementing training, etc.



**ADVANCING THE
PERFORMING ARTS**

To give you an idea of the work involved, organisations we have spoken to indicated that the process to obtain cover with ANSVAR included work such as:

- Updating existing policies and introducing new policies and procedures around child safety.
- Updating content on the website.
- Implementing a specific incident reporting procedure, including separate reporting mechanisms for children, young people, and staff, and educating young people on how to make a complaint.
- Updating recruitment policy to ensure new staff have a minimum of two referees, a police check, working with children card, etc.
- Including child safety as a standing item for Board meeting agendas.
- Appointing child safety officers at both a Board and staff level.
- Implementing child safety training.
- Committing to not hiring anyone with prior records/convictions of violence, etc.

Companies that have successfully obtained insurance cover have indicated that they would be happy to provide pointers to other companies wishing to go through this process.

Questions & More Info

Contact TNA General Manager Joshua Lowe at josh@tna.org.au.