



Application Submodule 3.1 – Consumers affected by the scheme and identification of consumer harms

A. TO BEGIN THE SUBMODULE

This submodule sets out the consumer protection information under the Professional Standards Legislation that is compulsory for an applicant association to complete and submit to the Professional Standards Councils when seeking approval for a Professional Standards Scheme.

The relevant section of the legislation (using the *Professional Standards Act 1994* (NSW) as an example) is section 10 requiring Councils' consideration before approving a Scheme of the position of persons who may be affected by limiting the occupational liability of members of the occupational association concerned i.e. who are the consumers of members' services – and other persons who may be affected - and what consumer harms will be addressed by approving the Scheme?

The submodule should be read in conjunction with Guidance 3.1.2 *Consumer protection guidance* and 4.0.2 *Professional risk management strategies guidance*.

B. WHAT IS CONSUMER PROTECTION IN THE CONTEXT OF A PROFESSIONAL STANDARDS SCHEME?

Consumer protection in the context of the Professional Standards Legislation involves those measures that an association identifies, implements, and continuously improves to minimise the potential for harm to clients who use an association member's professional service. Those measures include ongoing education of members and coordination across members to promote remedies.

Consumers use a variety of services provided by a range of occupational groups. There is generally an expectation that services supplied by these groups will be accessible, affordable and of a high standard. When these expectations are not met, and harm results, there is a further expectation that consumers will be able to seek redress. Different consumer protection considerations may arise for unsophisticated consumers (e.g. homeowners wishing to extend their home) compared with sophisticated consumers (e.g. a large corporation wishing to build an office block).

Harm can best be understood by applying the categories of technical and non-technical services that an association member can provide to a client. The non-technical category focuses on behavioural interaction as evidenced in the harm generated when the basic principles of professional conduct are not followed by the association or its members. The technical category relates to the competency dynamic of a member's technical skills and the lack of responsiveness to a client's needs, creating a divergence between consumer expectations and the exclusive, static nature of technical advice.

Consistent with Module 4.0 *Professional risk management strategies*, it is essential that association clearly identify and describe its consumers and services provided to them, and the ways to reduce the potential for harm emanating from those services.

C. COMPLETING THE REQUIRED INFORMATION

The information required from your association is to be entered in Template 3.1.1 *Consumers affected by the Scheme and identification of consumer harms*.