

# Annual Professional Standards Report

**Template and Guidance**

**For Schemes under professional standards legislation**

**June 2022**





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## **The Professional Standards Councils**

### **Our Vision**

Professional and occupational associations lead the way in advancing the highest standard of professional services to Australian Consumers.

### **Our Mission**

To regulate occupational associations to facilitate and promote consumer protection through improvement in professional standards under professional standards schemes.

### **Our Role**

To lead the national system of professional standards regulation by enabling the creation of professional standards schemes, and by assisting and supervising their operation, balancing the interests of consumers of professional services and of self-regulating professions and occupations.

Subject to consultation



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## Objectives

This template is designed to help your association meet its professional standards legislation obligations, and to promote the objects of the legislation which are:

- a) to enable the creation of Schemes to limit the civil liability of professionals and others
- b) to **facilitate the improvement of occupational standards** of professionals and others
- c) **to protect the consumers of the services provided by professionals** and others
- d) to constitute the Professional Standards Council to supervise the preparation and application of Schemes and **to assist in the improvement of occupational standards and protection of consumers.**

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Sch.4 s.4.1	s.3	s.3	s.4	s.	s.3	s.3	s.3

Under professional standards legislation (for example, s 37 of the NSW Act) an occupational association must provide the Councils with:

- information about its professional risk management strategies if requested to do so, and
- an annual report on the implementation and monitoring of these strategies, what effect they have had and any changes or proposed changes to them.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Sch 4 s.4.33	s.37	s.38	s.38	s.39	s.40	s.39	s.49

Your association's Annual Professional Standards Report is an integral element of the professional standards regulatory system. It outlines the work your association has undertaken to improve occupational standards and enhance consumer protection, specifically in the identification and reduction of consumer harms.



## Regulatory roles: the Councils and occupational associations

### *Role of the Councils*

The professional standards legislation establishes a meta-regulatory regime. The Councils regulate the occupational associations that in turn regulate their members. As a meta-regulator, the Councils approve and supervise the professional standards schemes under which associations set professional standards and undertake occupational risk-management. As regulators, the associations identify actual or potential harms that arise from the professional activities of their members, assessing and mitigating the risk. As a meta-regulator, the Councils give the associations significant discretion as to how they set professional standards and implement their risk management and compliance strategies.

The Councils have statutory functions to assist, advise and encourage occupational associations. They encourage and assist associations to develop their regulatory capacity.

The Councils also encourage and assist associations to develop risk management strategies and systems that can deliver continuous improvement of occupational standards and consumer protection.

### *Role of occupational associations*

In exchange for providing their members with the benefit of limited liability through a professional standards scheme, occupational associations regulate and monitor the compliance obligations and conduct of their members through robust systems to protect consumer interests including:

- consumer-focused risk management strategies and ongoing reviews and improvements to their risk management
- complaints and disciplinary procedures and systems
- ensuring their members have access to appropriate educational and support programs to continuously improve the competence and conduct of their members, and
- monitoring members' compliance with their obligations under professional standards legislation and continuously improving professional standards.

Schemes must have complaints and disciplinary systems to ensure compliance with standards. If noncompliance is detected by the association, it must have the capacity to take appropriate disciplinary action.

If the Councils have reason to believe that associations are not monitoring and/or carrying out appropriate disciplinary action, Councils will encourage and assist the association to achieve compliance, reserving the right to review or revoke schemes in the most serious cases.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Sch.4 s.4.13- 4.14	s.16-16A	s.16-17	s.17-18	s.17-18	s.17, 19	s.17-18	s.29-29A



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Associations are required to complete annual reports to the Councils over the life of the scheme, and any additional risk reporting requested by the Councils.

Your annual reporting shows your association is fulfilling its responsibilities as a professional standards regulator by:

- continuously improving professional standards and protecting consumers
- implementing and reviewing your risk management strategies and the effect of these strategies
- monitoring members' compliance with their obligations under professional standards legislation, and
- measuring the effectiveness of systems, policies and processes.

By reporting through this template, each association is asked to provide information that relates to its professional standards and regulatory systems, which will provide a better understanding of where the association is excelling or might need improvement. This information includes:

- Scheme compliance
- Professional risk management
- Complaints and discipline
- Continuing professional development (CPD)
- Audit.

For more information, see

- *SAF 0.0.1 Guidance - Application organisation and process at part 3*
- *SAF 4.2.1 Resolution of complaints from (members') client's system*



## Benefits of the data you report

The data you provide in your Annual Professional Standards Report enables the Councils to oversee schemes through monitoring the effectiveness of your association's regulatory procedures, systems and risk management strategies. Through encouraging and assisting associations develop their regulatory capacity, the Councils aim for continuous improvement of professional standards. This aligns with a key objective of the professional standards legislation: to improve occupational standards and protect consumers.

This template standardises the responses received from all occupational associations to facilitate aggregating and summarising data. This data is then used in the Councils' combined Annual Report<sup>1</sup> and forwarded to responsible Ministers and the wider community.<sup>2</sup> The benefits of collating and analysing such data includes:

The Councils analyse the data reported by associations to:	Examples of how the data is used:
<b>Measure improvements in professional standards and consumer protection</b>	Aggregate data to monitor trends and improvements in professional standards and consumer protection across associations and sectors.  Monitor changes and improvements over the life of a scheme, as published in the Councils' Annual Report.
<b>Measure association's capacity for regulation</b>	Monitor compliance with professional standards legislation.  Measurement of the effectiveness of systems, policies and processes in improving professional standards and protection of consumers.  Monitor association's compliance with its risk management strategies and the effectiveness of risk management strategies in responding to identified risks.
<b>Provide feedback in a standardised form to associations regarding their compliance and professional risk management processes</b>	Feedback letters and engagements with associations to provide encouragement and assistance.  Councils' Annual Report on the common areas of achievement and for improvement, <sup>3</sup> and

<sup>1</sup> Sch. 4 s. 4.33 *Civil Law (Wrongs) Act 2002* (ACT), s. 37 *Professional Standards Act 1994* (NSW), s.38 *Professional Standards Act 2004* (NT), s.38 *Professional Standards Act 2004* (QLD), s.39 *Professional Standards Act 2004* (SA), s.40 *Professional Standards Act 2005* (Tas), s. 39 *Professional Standards Act 2003* (Vic), s.49 *Professional Standards Act 1997* (WA).

<sup>2</sup> Sch. 4, s 4.56 *Civil Law (Wrongs) Act 2002* (ACT), s.47 *Professional Standards Act 1994* (NSW), s.53 *Professional Standards Act 2004* (NT), s. 64 *Professional Standards Act 2004* (QLD), s.17 *Professional Standards Act 1997* (WA).

<sup>3</sup> Pp 52-54 [Councils' 2020/21 Annual Report](#)



	sector-specific trends. <sup>4</sup>
<b>Provide guidance on common areas for improvement or on emerging risks</b>	<p>Guidance on continuous improvement tools and strategies.</p> <p>Regulatory guidance published on the Council's website.</p> <p>Professional Standards Forum topics.</p> <p>Commissioned research on sector-specific concerns.</p> <p>Identify and share leading practices across associations and professions.</p>
<b>Incorporate your APSR into the Councils' combined Annual Report, to be forwarded to responsible ministers</b>	<p>Provides transparency regarding the operation of professional standards schemes on matters such as:<sup>5</sup></p> <ul style="list-style-type: none"> <li>• scheme numbers and member participation nationally and by state or territory</li> <li>• claims against members of over 50% of the monetary ceiling, together with the main causes</li> <li>• complaints trends</li> <li>• adoption of root cause analysis by schemes in their risk management strategies</li> <li>• sector-specific trends</li> <li>• industry-wide trends, for example, increased insurance costs</li> <li>• emerging consumer risks, and</li> <li>• schemes' response to the COVID-19 pandemic</li> <li>• sharing leading practices across the professions.</li> </ul>
<b>Build an evidence base to demonstrate the effectiveness of regulating occupational associations</b>	<p>Collate data and trends from the across the life of the scheme to measure improvements.</p> <p>Inform the making of legislation which recognise the benefits of professional standards schemes.</p> <p>Integrated into the Councils' Annual Report.</p>
<b>Raise professional standards issues identified by associations with relevant stakeholders</b>	<p>Engagements with associations.</p> <p>Engagement with government and peer regulators.</p> <p>Engagements with academics to conduct independent research surrounding issues of consumer protection and ethical practice.</p>

<sup>4</sup> Pp 55-60 [Councils' 2020/21 Annual Report](#)

<sup>5</sup> [Councils' 2020/21 Annual Report](#)



The benefits of collating and analysing the data you report extends across stakeholders:

Benefits for:	Benefits through:
<b>Occupational associations</b>	<p>Self-assessing progress and enhancing accountability/credibility to members and the community by evidencing performance against specified standards<sup>6</sup></p> <p>Measuring the effectiveness of systems, policies and processes to continuously improve professional standards for members and their clients.</p> <p>Communicates how your association has improved professional standards and protection of consumers.</p> <p>Illuminates to stakeholders and government the issues identified by associations and appropriate risk management.</p> <p>Enhancement of community trust in associations with professional standards schemes.</p>
<b>Members of occupational associations</b>	<p>Seeing how and where the benefits have been made to their profession, including through</p> <ul style="list-style-type: none"> <li>• responses to emerging risks for the profession,</li> <li>• increased community confidence and professionalisation of the sector, and</li> <li>• the affordability of professional indemnity insurance.</li> </ul>
<b>Community</b>	<p>The Councils' oversight role of ensuring continuous improvement can incentivise improvement in performance.<sup>7</sup></p> <p>Higher quality of services provided for the community through the continuous improvement of risk management strategies.</p> <p>Positive outcomes for consumers through reducing consumer risk and building consumer confidence in the sector.</p>
<b>National professional standards system</b>	<p>The Councils identifying trends, sharing leading practices across the professions to associations, governments, and stakeholders to inform decision-</p>

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<https://www.cgc.org.uk/sites/default/files/20200128%20Effective%20Regulation%20Literature%20Review%20Final%20report.pdf> p. 11

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<https://www.cgc.org.uk/sites/default/files/20200128%20Effective%20Regulation%20Literature%20Review%20Final%20report.pdf> p. 11



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	<p>making and driving improvements over time<sup>8</sup>. Provides transparency of the operation of professional standards schemes, the improvements for professions and the community.</p>
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Subject to consultation

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<https://www.cgc.org.uk/sites/default/files/20200128%20Effective%20Regulation%20Literature%20Review%20Final%20report.pdf> p. 12



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## Your obligation

The reporting period is 1 January 2022 to 31 December 2022 and the report must be submitted by **31 March 2023**. Failure to provide a completed report by **31 March 2023** will result in the association being reported as **non-compliant** in the Professional Standards Councils Annual Report.

For the 2022 reporting year, your association will have the option to submit an annual report in either the PSIP or APSR template format. If your association's report does not comply with either of these formats, you will be required to resubmit your report and will be noted as non-compliant.

It is a requirement of the Councils that associations identify and report to the Councils as soon as reasonably practicable:

- any claim or notification after receipt which is in breach (or may reasonably breach) any limit of liability set by the scheme
- **any significant event, change or development which affects the scheme, as soon as practicable.**<sup>9</sup>

Your report **must be signed by your Chief Executive Officer (CEO) and President, or equivalent Executive and Board/Committee designations**. Where an association does not have a CEO, the equivalent officer will be the person who is responsible for managing the affairs of the association and has the authority to make decisions about the allocation of resources so that the scheme can comply with the requirements of the professional standards legislation.

We expect that the governing body will have reviewed and approved the association's report prior to submission to the Professional Standards Councils. Such review and approval are to be evidenced by providing the relevant Board minutes, or similar, with this report.

Your association must provide an Annual Membership Assurance Report (AMAR) within two months of each anniversary of the annual fee due date (first calendar quarter after scheme commencement date anniversary). Refer to section 2 for information.

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<sup>9</sup> Refer to [Appendix F](#) for guidance on 'significant events'.



## Governance – review, approval, declaration, and signatory

The CEO and Chair or President of the association are required to complete the following declaration and signatory details:

### DECLARATION & SIGNATORY

***I, the undersigned, am authorised to declare on behalf of the association:  
that to the best of its knowledge and having made reasonable enquiries, the  
information supplied in this Report is complete and accurate.***

***The association acknowledges that:***

- the Councils may act to verify the information provided in this report and that the report will be checked for incompleteness***
- If the report is incomplete, the Authority will follow this up with your association. Once complete, the report will be accepted.***

Authority	CEO	Chair/President/Other authority (identify which applies)
Signature		
Full Name		
Capacity	CEO	Director/Secretary/Other (identify which applies)
Date		



## How to submit your report

Associations must submit their report and any annexures via electronic submission methods.

**The preferred electronic submission method is through cloud-based file sharing services that your association uses. Once you have made your submission, your association will need to send the link of the submission to the email inbox listed below.**

Upon receiving the submission, the Professional Standards Authority will send an acknowledgement of receipt. Please note that acknowledgment does not imply acceptance.

**Your report must:**

- Number every page
- Number each response using the Template numbering
- Index and label your Annexures
- Cross reference your Annexures using the Template numbering

**Please attach your report and all annexures, submit it via your preferred electronic submission method and send the link to the submission to [annualreport@psa.gov.au](mailto:annualreport@psa.gov.au)**

The preferred formats are searchable PDF document, MS Word or MS Excel for tables. Scanned PDF documents should be made searchable and optimised to reduce file size and assist with delivery.

Ensure that any attachment file names include a numbering system to assist with collating.

**For further information, please contact:**

Manager Supervision

Professional Standards Authority

(02) 8315 0843

[annualreport@psa.gov.au](mailto:annualreport@psa.gov.au)



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## 1. Annual Professional Standards Report Template

### A. HIGHLIGHTS

Refer to Appendix A for guidance

In this Part, associations report on their highlights:

*Highlights may include professional risk management learnings or improvements,<sup>10</sup> including but not limited to:*

- *effects of any risk management strategies<sup>11</sup> implemented in previous reporting years*
- *demonstration of good practice in occupational standards*
- *changes to occupational standards*
- *improvements to member governance processes*
- *developments relevant to the scheme*
- *innovations implemented from analysing and responding to risks*
- *projects enabling better consumer protection.*

**What were your association's top highlights during the year for the following?**

- **Improving occupational standards**
  - **Increasing consumer protection**
  - **Operating professional standards schemes.**
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<sup>10</sup> **Learnings** refer to insights drawn from an analysis of existing and emerging risks which are apparent from the variety of data sources available to your association. Learnings drive and inform improvements in scheme administration, occupational standards and consumer protection.

**Improvements** refer to the systematic and ongoing lifting of performance and outcomes of professional standards and consumer protection. Improvements are derived from monitoring, learnings, and experiences of the association.

<sup>11</sup> **Risk management strategies** refer to [Appendix F](#) for further guidance.



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## B. INFORMING MEMBERS AND CONSUMERS

Aim: to demonstrate improvements in how members and consumers are informed about your scheme

Refer to Appendix B for guidance

In this Part, associations report on measures taken to raise awareness and understanding of the scheme:

Table 1. Raising awareness and understanding of the scheme

1	<b>Have there been any changes or reviews to how your association informs members of their scheme obligations?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>If Yes, please provide details.</b>	
	<b>If Yes, how is your association monitoring the effect of the changes?</b>	
2	<b>Have there been any changes or reviews to improve members' clients, and the wider public's, understanding of the scheme?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>If Yes, please provide details.</b>	
	<b>If Yes, how is your association monitoring the effect of the changes?</b>	



## C. PROTECTING CONSUMERS

Aim: to demonstrate improvements in how consumers are protected by your scheme through improving standards and professional risk management.

Refer to Appendix C for guidance

In this Part, associations report on any changes to, or reviews of, their Scheme Compliance Plan and Professional Risks and Related Treatment Plans.<sup>12</sup>

### Scheme Compliance Plan and Professional Risks and Related Treatment Plans

Table 2. Scheme Compliance and Professional Risks and Related Treatment Plans

1	Have there been any changes to your association's Scheme Compliance Plan/Program in the last reporting year?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, please provide a marked-up version.	Annexure no.:
2	Have there been any changes or reviews to your association's Professional Risks and Related Treatment Plans in the last reporting year? <sup>13</sup>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, please provide a marked-up version and details of any reviews conducted.	Annexure no.:

<sup>12</sup> Note: *Professional Risks and Related Treatment Plans* were formerly known as the *Risk Management Plan*.

<sup>13</sup> Formerly known as the *Risk Management Plan*.



## Risk analysis

Table 3. New risks added in the reporting year

**Note:** Associations may refer to sections (including pages) of their Professional Risks and Related Treatment Plans.<sup>14</sup> Please provide an Annexure number if the requested information is available in your Annexure.

<input type="checkbox"/> No new/emerging risks were added in the reporting year			
What new/emerging risks were added to your Professional Risks and Related Treatment Plans this reporting year that relate to the following: <ul style="list-style-type: none"><li>• Professional/occupational standards</li><li>• Scheme compliance</li><li>• Practitioner/client relationship</li><li>• Consumer protection</li><li>• Significant events<sup>15</sup></li></ul>	Rate the risks: <ul style="list-style-type: none"><li>•High</li><li>•Medium</li><li>•Low</li></ul>	What professional risk management strategies <sup>16</sup> were developed in response?	How is your association monitoring the effects of these strategies?
1.			
2.			
3.			

<sup>14</sup> Formerly known as the *Risk Management Plan*.

<sup>15</sup> Refer to [Appendix F](#) for guidance on 'significant events'.

<sup>16</sup> Refer to [Appendix F](#) for guidance on risk management strategies.



Table 4. Professional risk management tools

<input type="checkbox"/> No actions were taken in the reporting year	
<b>1</b>	<b>Describe actions your association has taken to implement any of the following tools:</b> <ul style="list-style-type: none"><li>• Root cause analysis</li><li>• Behavioural insights</li><li>• <a href="#">Other tools presented by Councils' Forums</a></li></ul>
<b>2</b>	<b>Who undertook the activities or actions (e.g. external/internal roles)?</b>
<b>3</b>	<b>What were the top three (3) findings from your actions, including:</b> <ul style="list-style-type: none"><li>• root causes</li><li>• behavioural insights?</li></ul>
<b>4</b>	<b>How is your association monitoring if the above findings have been addressed?</b>

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## D. RESPONDING TO CONSUMER COMPLAINTS AND CLAIMS

Aim: to demonstrate improvements in how consumers are provided with redress

Refer to Appendix D for guidance

In this Part, associations report on complaints and claims data and trends, disciplinary action, complaints, claims and disciplinary systems, and insurance trends.

### Complaints and disciplinary systems available to consumers

Table 5. Complaints data (suggested)

	2022
<b>Complaints received (including referrals from statutory regulators)</b>	
Note – Some associations have been reporting the number of enquiries they received. Enquiries are defined as questions regarding a complaint that have not escalated to a formal lodging of a complaint by the claimant. If this is applicable to your association, please provide separate numbers for complaints and enquiries.	
<b>Complaints not resolved in prior year(s) carried forward</b>	
<b>Complaints investigated</b>	
<b>Complaints dismissed (frivolous, vexatious or lacking in substance)</b>	
<b>Complaints referred to a statutory regulator (and resulting action if known)</b>	
<b>Complaints resolved by Conciliation/Mediation</b>	
<b>Complaints resolved with remedial or disciplinary action (provide details)</b>	
<b>Complaints which were the subject of a hearing, and the result). For example:<sup>17</sup></b> <ul style="list-style-type: none"><li>• dismissed for being unsubstantiated</li><li>• caution or reprimand</li><li>• conditions imposed</li><li>• course or training required</li><li>• additional reporting imposed</li><li>• must seek advice from qualified person</li><li>• terminate membership.</li></ul>	

<sup>17</sup> Sch 5 cl.7 *Civil Law (Wrongs) Act 2002* (ACT), Sch 1 cl.7 *Professional Standards Act 1994* (NSW), Sch 1 cl.7 *Professional Standards Act 2004* (NT), Sch 1 cl.6 *Professional Standards Act 2004* (QLD), Sch 1 cl.7 *Professional Standards Act 2004* (SA), Sch 1 cl.7 *Professional Standards Act 2005* (Tas), Sch 1 cl.7 *Professional Standards Act 2003* (Vic), Sch 3 cl.7 *Professional Standards Act 1997* (WA).



Table 6. Complaints - causes

<b>Note</b>	
This table is an <b>example</b> only and can be varied to reflect the causes of complaints received by your association.	
Only causes comprising more than, or equal to, 10 percent of complaints should be listed within the table. All remaining causes should be grouped together as 'other'.	
	2022
Cause 1	
Cause 2	
Cause 3	
Cause 4	
Cause 5	
Other	
Total	

Table 7. Average Time to Resolve Complaints

An association should consider a complaint as soon as practicable after the complaint is made. <sup>18</sup>	
Does the association have a policy on the time to resolve complaints? Did the association resolve complaints within the time stated in the policy? If not, why not?	
<b>Note:</b> a complaint is taken to be <b>resolved</b> if it is:	
<ul style="list-style-type: none"><li>• not entertained for being frivolous, vexatious or lacking in substance</li><li>• the subject of successful mediation/conciliation</li><li>• the subject of disciplinary action</li><li>• the subject of a concluded hearing, or</li><li>• referred to a statutory regulator.</li></ul>	
Provide the number of complaints resolved in the last reporting year according to how long they took to resolve.	
	2022
Less than 1 month	
1-6 months	

<sup>18</sup> Sch 5 cl.5.6 *Civil Law (Wrongs) Act 2002* (ACT), Sch 1 cl.6 *Professional Standards Act 1994* (NSW), Sch 1 s.7 *Professional Standards Act 2004* (NT), Sch 1 cl.5 *Professional Standards Act 2004* (QLD), Sch 1 cl.6 *Professional Standards Act 2004* (SA), Sch 1 cl.6 *Professional Standards Act 2005* (Tas), Sch 1 cl.6 *Professional Standards Act 2003* (Vic), Sch 3 cl.6 *Professional Standards Act 1997* (WA).



6-12 months	
1-2 years	
2 years +	

Table 8. Complaints systems

1	Have there been any changes to your complaints system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, please provide details of the changes.	
	If Yes, how is your association monitoring the effect of the changes?	

Table 9. Disciplinary action taken against members

<b>Note:</b> Associations may refer to sections of their Annexures (including page numbers) if the relevant information for the question is available in the Annexure.		
1	Have there been any changes to your member discipline system?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, please provide details of the changes.	
	If Yes, how is your association monitoring the effect of the changes?	
2	How many disciplinary actions were taken against members?	
3	What were the top three causes/reasons for disciplinary action against members?	1. 2. 3.
4	Have you considered the top causes/reasons for disciplinary action in your Professional	<input type="checkbox"/> Yes <input type="checkbox"/> No



<b>Risks and Related Treatment Plans?<sup>19</sup></b> <i>If yes, provide references to your Professional Risks and Related Treatment Plans Annexure.</i>	
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### Responding to consumer risks and harms through claims data

Table 10. Claims data - systems

<b>1</b>	<b>Have there been any changes to the way your association collects member professional indemnity insurance claims data?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>If Yes, please provide details.</b>	

Table 10.1 **OPTIONAL** table - Professional indemnity insurance notifications, claims and settlement data

Type of data	Definition	Number	Monetary value (\$)
<b>Notifications</b>	Total number and monetary value of professional indemnity insurance notifications in 2022		
<b>Claims</b>	Total number and monetary value of professional indemnity insurance claims in 2022		
<b>Settlements</b>	Total number and monetary value of settlements paid for professional indemnity insurance claims in 2022		

<sup>19</sup> Formerly known as the *Risk Management Plan*.



Table 10.2 **OPTIONAL** table - Claims Monitoring Committees

<i>Note: this governance activity is encouraged, but not mandatory.</i>		
<b>1</b>	<b>Has your association established a committee for monitoring and analysing claims made against your members?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>2</b>	<b>If Yes, has the committee issued any practice guidance?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Table 11. Affordability and availability of professional indemnity insurance

<b>Note:</b> Associations may refer to sections of their Annexures (including page numbers) if the relevant information for the question is available in the Annexure.		
<b>1</b>	<b>Attach any reports from brokers or insurers on the insurance market (effects, market comments) for your members and/or like professionals.</b>	<b>Annexure no.:</b>
<b>2</b>	<b>Has the average cost of members' PII premiums increased or decreased since the last reporting year?</b>  <i>If increased or decreased, include the percentage.</i>	<input type="checkbox"/> Increased, by X% <input type="checkbox"/> Decreased, by X% <input type="checkbox"/> Stayed the same <input type="checkbox"/> Unsure
<b>3</b>	<b>Has the availability of insurance increased or decreased since the last reporting year?</b>	<input type="checkbox"/> Increased <input type="checkbox"/> Decreased <input type="checkbox"/> Stayed the same <input type="checkbox"/> Unsure

Table 11.1 **OPTIONAL** table – Engagement with Insurers

<b>1</b>	<b>Has your association engaged with insurers, brokers or industry experts to review the impact of the scheme</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
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<b>to the quality, affordability, and availability of insurance premiums?</b> <i>Note: this governance activity is not mandatory.</i>	<input type="checkbox"/> Other: please specify
<b>If Yes, what improvements (if any) have been secured because of that engagement?</b>	

Table 12. Top 5 causes of claims

<b>Note</b> Only causes comprising more than, or equal to, 10 percent of claims should be listed within the table.		
#	Top 5 causes of claims	Number of claims in 2022
1		
2		
3		
4		
5		





Table 14. Data relating to all claims above the scheme's limitation of liability for the reporting cycle

1	<b>Has your associations received any claims above your scheme's limitation of liability?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2	<b>If Yes, please provide details.</b>	

Table 15. Complaints and Claims - analysis

1	<b>What professional risk management strategies has your association developed to respond to the risks identified by the complaints and claims data?</b>	<input type="checkbox"/> Member communications <input type="checkbox"/> Implementing CPD programs <input type="checkbox"/> Review of relevant policy/procedures <input type="checkbox"/> Quality review initiatives <input type="checkbox"/> Other: please specify <input type="checkbox"/> None
2	<b>Please provide details on the marked strategies.</b>	
3	<b>How is your association monitoring the effect of the marked strategies?</b>	



## E. SCHEME ADMINISTRATION

Aim: to demonstrate improvements in operating a scheme and other relevant details

Refer to Appendix E for guidance

In this Part, associations report on or provide changes to governance arrangements and scheme monitoring improvements, discretionary higher caps, scheme coverage and awareness.

### Association governance systems

Table 16. Changes to Governance

<b>Has your association made any changes to your governance arrangements, including but not limited to:</b>	<b>Mark if changed</b>	<b><i>If changed, provide Annexure number</i></b>	<b><i>If changed, provide evidence of the approval process to make the change (provide Annexure number)</i></b>
Constitution or Charter	<input type="checkbox"/>		
Objectives, Mission or Goals of the association	<input type="checkbox"/>		
Association Code of Ethics/Conduct	<input type="checkbox"/>		



Membership entry requirements	<input type="checkbox"/>		
Membership classes or classes to whom the scheme applies	<input type="checkbox"/>		
Material changes to legislation and regulations applicable to your occupation and association	<input type="checkbox"/>		
Board and Committee architecture and appointments (including Professional Standards Committees)	<input type="checkbox"/>		
Scheme administration resources and staff	<input type="checkbox"/>		



## Member audits and compliance activities

Table 17. Member compliance with professional indemnity insurance standards

<b>1</b>	<b>What did your association do to monitor member compliance with professional indemnity insurance standards?</b>	
<b>2</b>	<b>What were the results of any monitoring activities?</b>	
<b>3</b>	<b>Was there an improvement in member compliance (or reduction in breaches) this year from last reporting year?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
<b>4</b>	<b>Outline any remedial or enforcement actions taken in response to non-compliance.</b>	
<b>5</b>	<b>How is your association monitoring the effects of the above strategies?</b>	

Table 18. Members limited liability disclosure requirements

<b>1</b>	<b>What did your association do to monitor member compliance with limitation of liability disclosure requirements?</b>  <i>(Note: Refer to guidance for jurisdiction-specific requirements.)</i>	
<b>2</b>	<b>What was done to ensure non-participants of the</b>	



	<p>scheme are not using the disclosure statement?</p> <p>When did this occur?</p>	
3	<p>What percentage (%) of your scheme members were audited in relation to the disclosure of their limited liability status?</p>	
4	<p>What percentage (%) of those audited members were noncompliant with their scheme obligations?</p>	
	<p>Was there an improvement in member compliance this year from last reporting year?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
5	<p>Outline any remedial or enforcement actions taken in response to non-compliance.</p> <p>How many actions were taken?</p>	
6	<p>How is your association monitoring the effects of the above strategies?</p>	

Table 19. Members' CPD requirements

1	<p>What did your association do to monitor member compliance with CPD requirements?</p>	
2	<p>What percentage (%) of your scheme</p>	



	members were audited for compliance with their CPD requirements?	
	What percentage (%) of audited members were noncompliant with their CPD requirements?	
3	Was there an improvement in member compliance this year from last reporting year?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unsure
4	Outline any remedial or enforcement actions taken in response to non-compliance.  How many actions were taken?	
5	How is your association monitoring the effects of the above strategies?	

### Scheme membership monitoring

Table 20. Association membership numbers<sup>20</sup>

		2021	2022	Forecast 2023
Step 1	Total number of Australian residential members of association			
Step 2	Number of members excluded from the scheme (describe class and other attributes that make the member ineligible for scheme participation. If zero, write zero)			

<sup>20</sup> Associations are reminded that Table 21 is not a substitute for the Annual Membership Assurance Report, which must be separately submitted to the Authority within two months of the scheme anniversary fee due date.



<b>Step 3</b>	Number of members with an approved exemption from the scheme			
<b>Step 4</b>	<b>Calculation step</b> (equals) number of members eligible <sup>21</sup> for the scheme (1 less 2 less 3, above).			
<b>Step 5</b>	Number of members eligible for the scheme per payments to Councils (Annual Membership Assurance Report)			
<b>Step 6</b>	<b>Calculation step</b> the variance between the number of members eligible for the scheme (step 4) and the number of members eligible for the scheme per payments to Councils (step 5). If zero, write zero. Please provide explanation of composition of variances (i.e. Councils granted annual fee waivers).			

Table 20.1 **OPTIONAL** table: Governing and monitoring scheme membership

<b>1</b>	<b>Please comment on any trends in association membership numbers and your association's response(s) (if any).</b>	
----------	--	--

### Scheme exemptions and higher discretionary caps

Table 21. Scheme exemptions

<p><b>Note:</b> the following table can be disregarded if your scheme instrument does not provide for this function.</p> <p><input type="checkbox"/> N/A (move to next table).</p>	
<b>1</b>	<p><b>Have there been any changes to your association's scheme exemption policies and associated approval processes?</b></p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

<sup>21</sup> Eligible scheme participants are the members or classes of members to whom your scheme applies following any compliant exclusions and exemptions.



	<p><b>If Yes, please provide details.</b></p> <p><i>This may include a marked-up version of changes made in your annexure.</i></p>	<b>Annexure no.:</b>
2	<p><b>Have there been any changes to forms or information provided to members, or published on your website, regarding scheme exemption?</b></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<p><b>If Yes, please provide details.</b></p>	<b>Annexure no.:</b>
3	<p><b>During the reporting period, how many scheme exemption applications were</b></p> <p>a. Made? b. Granted?</p> <p>Please provide a copy of your scheme exemption register.</p>	<p>a. b.</p> <p><b>Annexure no.:</b></p>
	<p><b>Please comment on any trends in the number of scheme exemption applications granted or applied for and your association's response to such trends.</b></p>	

Table 22. Higher discretionary caps

<p><b>Note:</b> the following table can be disregarded if your scheme instrument does not provide for this function.</p> <p><input type="checkbox"/> N/A (move to next table).</p>		
1	<p><b>Have there been any changes to your association's higher discretionary caps policies and associated approval processes?</b></p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<p><b>If Yes, please provide details.</b></p>	<b>Annexure no.:</b>



	<i>This may include a marked-up version of changes made in your annexure.</i>	
2	<b>Have there been any changes to forms or information provided to members, or published on your association's website, regarding higher discretionary caps?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<b>If Yes, please provide details.</b>	<b>Annexure no.:</b>
3	<b>During the reporting period, how many higher discretionary cap applications were</b> a. Made? b. Granted?  Please provide a copy of your higher discretionary caps register.	a. b.  <b>Annexure no.:</b>
4	<b>Please comment on any trends in the number of higher discretionary caps granted or applied for and your association's response to such trends.</b>	



## 2. Annual Membership Assurance Report

Your association must provide an Annual Membership Assurance Report, in the format provided with the Annual Professional Standards Report, to verify the number of members to whom the scheme applied for the annual fee period, the fees payable and the dates and amounts paid to the Councils during the annual fee period (the subject matter).<sup>22</sup>

The subject matter should be prepared annually by the Association and show, for the annual fee period, details of quarterly scheme fees paid, fee due dates and accrued interest if any.

The Assurance Report must be provided within two months from the date the final annual scheme fee was due.

For example:

*If the scheme commences on 7 January 2021, then the anniversary is 7 January 2022 and the final annual fee payment for the scheme year would be due on 31 March 2022. The Annual Membership Assurance Report will be due two months from 31 March 2022, by 31 May 2022.*

The Annual Membership Assurance Report provides assurance of the amount of annual fees payable by an occupational association for the annual fee period. By conducting assurance engagements on scheme participant fees payable each scheme period, your association provides a high level of assurance to the Councils that the professional standards scheme is being effectively operated.

An association is required to provide either:

- i. for occupational associations with 100 or more scheme members, the subject matter must be included within an Assurance Report issued by a suitably qualified assurance practitioner. The report must be signed by an assurance practitioner who is a member of a "Professional Accounting Body", which is defined as the CPA Australia (CPAA), the Chartered Accountants Australia and New Zealand (CAANZ) or the Institute of Public Accountants (IPA).
- ii. For occupational associations with less than 100 scheme members, the report must be signed by the Chief Executive Officer, or equivalent nominee, and the Finance Officer.

Table 23. Annual Membership Assurance Report

<b>1</b>	<b>Has your association submitted your Annual Membership Assurance Report?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>2</b>	<b>If No, please provide details.</b>	

<sup>22</sup> Refer to the [Guidance note on Fees payable and Assurance reporting](#) for further information.



### 3. Comparison of Annual Professional Standards Report with Professional Standards Improvement Program

Some of the information in the previous Professional Standards Improvement Program is required in the Annual Professional Standards Report.

Table 24 below is a comparative table which sets out the 2021 Professional Standards Improvement Program sections against the Annual Professional Standards Report.

Table 24. Comparison of Professional Standards Improvement Program and Annual Professional Standards Report

Professional Standards Improvement Program Section No. & Topic	Annual Professional Standards Report Equivalent – Part & Topic
-	A. Highlights
<b>Root Cause Analysis</b>	C. Protecting Consumers
<b>Reviewing and embedding Codes of Ethics in professional practice</b>	C. Protecting Consumers
<b>1.Association and Scheme Administration Data</b>	
1.1 Governance	E. Scheme Administration
1.2 Scheme administration details	E. Scheme Administration
<b>2.Scheme Monitoring</b>	
2.1 Membership & participants	E. Scheme Administration
2.2 Agreement	B. Informing Members and Consumers
2.3 Membership entry requirements	E. Scheme Administration
2.4 CPD requirements	E. Scheme Administration
2.5 Insurance standards	D. Responding to Consumer Complaints & Claims
2.6 Disclosure requirements	E. Scheme Administration
<b>3.Scheme Monitoring improvements</b>	E. Scheme Administration
<b>4.Risk Analysis</b>	C. Protecting Consumers
<b>5.Risk Management improvements</b>	C. Protecting Consumers
<b>6.Complaints &amp; discipline</b>	D. Responding to Consumer Complaints & Claims
<b>7.C&amp;D system improvements</b>	D. Responding to Consumer Complaints & Claims
<b>8.PI Claims Data</b>	D. Responding to Consumer Complaints & Claims
<b>9.Assoc.Insurance Standards</b>	
9.1 Insurance standards changes	D. Responding to Consumer Complaints & Claims
9.2 Insurance data	D. Responding to Consumer Complaints & Claims
9.3 Discretionary caps & exemptions	E. Scheme Administration
<b>10. Occupational Association Admin</b>	



10.1 Association membership numbers	E. Scheme Administration
10.2 Compliance Plan	C. Protecting Consumers
<b>11.Certification, Declaration and Signature</b>	
11.1 AMVC/AMDC Compliance	E. Scheme Administration
Financial services additional reporting	
Covid-19 risk management survey	
11.2 Governing body review / approval	PRELIMINARY
11.3 Declaration & signatory	PRELIMINARY

Subject to consultation



## Appendix A

### A. HIGHLIGHTS

This section aligns with the Scheme Application Framework 1.2.1

In this section, associations are required to report on their biggest highlights and achievements during the year, particularly in relation to improving occupational standards and increasing consumer protection. This can include:

- highlights and achievements from the reporting year
- improvements that are seen during the year following implementation of strategies in prior reporting periods, and
- initiatives that have been implemented in the reporting year which will improve occupational standards and consumer protection in the subsequent reporting years.

Please take the opportunity to think broadly and tell the Councils about your work to raise standards and protect consumers. This may include:

- New standards, publications, reports, policies, procedures and systems
- Reforms, developments or initiatives to continuously improve professional standards and consumer protection
- The effect of risk management strategies<sup>23</sup> on improving consumer protection
- Initiatives to raise awareness of the scheme and member obligations
- Improvements in complaints and claims trends
- Improvements in Continuing Professional Development
- Any new risks that have emerged for consumers during the year and the risk management strategies in response.

For example, these are some of the types of highlights which associations have reported in previous years:

- *we introduced a new CRM / database system to better track the fulfilment of requirements for new members and the renewal of existing members participation in the scheme*
- *complaints (or claims) against our members fell by x% due to improvements in CPD [or other actions]*
- *membership and scheme participation increased by x% as a result of our marketing/consumer awareness program [or other actions]*

<sup>23</sup> See [Appendix F](#) for further information on professional risk management strategies.



- 
- *scheme participation for our professional occupation rose to x% of the profession, due to [an awareness program in the profession which stressed the benefits of participating]*
  - *we entered into a new information sharing arrangement with [the statutory complaints resolution scheme / disciplinary body to enable more relevant data to be obtained, so as to better target our risk management / monitoring / CPD / awareness programs]*
  - *we changed the Constitution and elevated the status of the association's [Professional Standards Working Group / Committee to be a fully-fledged Board Committee].*

Subject to consultation



## Appendix B

### B. INFORMING MEMBERS AND CONSUMERS

Aim: to demonstrate improvements in how members and consumers are informed about your scheme

The following tables align with the Scheme Application Framework:

Table(s)	Related SAF Module/Template
1	1.3.1 2.3.1 2.4.1 4.1.1a

**Table 1.** Raising awareness and understanding of the scheme

In completing this table, please provide details of any changes to, or reviews of:

- how the association informs scheme participants of their compliance obligations with the scheme and professional standards legislation
- how members' clients and the wider public are educated regarding the scheme.
- informing scheme participants of their disclosure obligations
- how members clients and the wider public are able to access information regarding individual scheme participants (at a particular point in time).



## Appendix C

### C. PROTECTING CONSUMERS

Aim: to demonstrate improvements in how consumers are protected by your scheme through improving standards and professional risk management.

The following tables align with the Scheme Application Framework:

Table(s)	Related SAF Module/Template
2	2.4.1 4.0.1
3	1.2.1 4.0.1 4.0.2
4	4.0.1

**Table 2.** Scheme Compliance and Professional Risks and Related Treatment Plans:

In completing this table, associations report on whether there have been any changes or reviews of the Scheme Compliance Plan and Professional Risks and Related Treatment Plans.

#### **Scheme Compliance Plan**

*‘An effective, organisation-wide compliance management system enables an organisation to demonstrate its commitment to compliance with relevant laws, regulatory requirements, industry codes and organisational standards, as well as standards of good governance, generally accepted best practices, ethical and community expectations.’*

ISO 37301:2021 Compliance Management Systems – Requirements with guidance for use.

ISO 37301:2021 defines compliance as follows:

Compliance is an outcome of an organisation meeting its obligations and is made sustainable by embedding it in the culture of the organisation and in the attitude and behaviour of people working for it.

An effective Compliance Plan shows that your association is:

- monitoring and reporting on scheme compliance obligations
- managing scheme compliance risks appropriately, and
- identifying and treating new and emerging compliance risks in line with your risk approach.

The Compliance Plan should include the association's risk management strategies relating to occupational and compliance risks of noncompliance of scheme obligations, including fee payments, compliance with association membership requirements, CPD



requirements and insurance standards. The Compliance Plan will include inputs from the Professional Risks and Related Treatment Plans (and vice versa).

The Compliance Plan should focus on the following:

- the relevant obligations and processes, with the relevant controls and their owners
- frequency of process/controls
- criteria for identifying high, medium, or low obligations in reference to professional standards legislation, the association's policy or best practice requirements, and
- cross reference to the association's Professional Risk and Related Treatment Plans.

### **Professional Risks and Related Treatment Plans**

Professional Risks and Related Treatment Plans were formerly known as a Risk Management Plan. Every occupational association should ensure that risk management is integrated into all organisational activities including governance, business continuity, compliance, quality, health and safety, security, human resources, information technology and organisation resilience.

It is anticipated that, in following good practice, the Professional Risks and Related Treatment Plans are reviewed by the occupational association at least annually, after which review the plans may be amended to reflect identification of new or emerging risks, strategies to manage those risks, and improvements in risk management and occupational standards.

In all jurisdictions, an occupational association must provide the Councils with information regarding its risk management strategies if requested to do so. See s.37 NSW, Sch 4, s.4.33 ACT, s.38 NT, s.38 QLD, s.39 SA, s.40 Tas, s.39 VIC, s.49 WA.

The plans should be developed in a manner not inconsistent with the current standard [ISO 31000:2018, Risk Management Guidelines \(supersedes AS/NZS 31000:2009 Risk Management – Principles and Guidelines\)](#).

Councils have previously identified **principal areas** of risk underpinning the occupational standards of associations including (but not limited to) entry qualifications, codes of ethical conduct, continuing professional development, quality control/assurance programs, technical standards and guidance, advisory and support services, and complaints and discipline systems. Those areas are not prescriptive or exhaustive and associations are encouraged to utilise the reporting process as an opportunity to review, refine and respond to **all risks** that affect (or are likely to affect in the future) members' professional conduct, professional reputation, and the association's capacity for self-regulation.

Professional Risks and Related Treatment Plans should cover all risks and risk management strategies relevant to the association, the scheme, scheme participants and consumers to improve occupational standards and protect consumers. The Plan will include inputs from the Compliance Plan (and vice versa) and risks and strategies identified from complaints and claims data (for example).

For more information, see the following Scheme Application Framework modules:

- *2.4.1 Scheme Compliance Plan*
- *4.0.2 Guidance – Professional risk management strategies*



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**Table 3.** New risks added in the reporting year:

In completing table 3, associations specifically report on new and emerging risks that have been identified and the risk management strategies developed to directly respond to these risks.

While these new and emerging risks and risk management strategies should be added into the Professional Risk and Related Treatment Plan, in this table, these new risks and strategies are specifically highlighted, as well as how the effects of these strategies will be monitored.

Please contact the Professional Standards Authority if you have any questions regarding this section.

**Table 4.** Professional risk management tools:

In completing table 4, associations report on any risk management tools utilised to identify risks, the findings of these actions and how the association is monitoring the response to these findings.

The Councils encourage associations to utilise risk management tools such as root cause analysis and behavioural insights to assist with identifying the underlying risk and to utilise learnings to inform risk management strategies.

**Root cause analysis**

For several years, the Councils have encouraged associations to use root cause analysis in their operations as a useful tool to discover the real cause of claims and complaints in order to implement the appropriate risk management response.

This year, in several parts of the template, you are once again asked whether you have undertaken any root cause analysis.

*What is Root Cause Analysis?*

- The root cause is the initial or initiating reason for the occurrence of a problem. It is often not the cause of action. The root cause is often a professional breach, where cause of action is often a technical or final breach.
- The root cause sets in motion the cause-and-effect chain causing the problem(s) that lead to complaints and claims.
- The root cause(s) leading to complaints and claims should be reduced or eliminated through improvement in occupational standards and modification of the behaviour of the professional.

*More Practical Detail on Root Cause Analysis:*

In practice, root cause analysis is a team-based, collaborative approach to resolving problems and issues that have occurred or may occur in your association, preventing reoccurrence in the future. It involves dedicated and forensic examination of the problem and its causes before moving to solutions, rectification and prevention. All complaints should be classified and then analysed to identify systemic, recurring and single incident problems and trends. Root cause analysis is suggested to be used to identify underlying reasons for complaints.



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### Identify root causes

- *what are the known facts?*
- *can the facts be substantiated?*
- *conduct further investigation into facts if necessary*
- *delete all causes for which there is no evidence*

### Build a logic tree

- *a logic tree is the graphical expression of cause and effect relationships that led to an undesirable outcome*
- *helps to determine what went wrong and why*
- *start with the problem and ask, “what are the 3 main reasons for this problem?”*
- *start with broad possibilities and get more specific as you drill down*

### Brainstorm corrective action

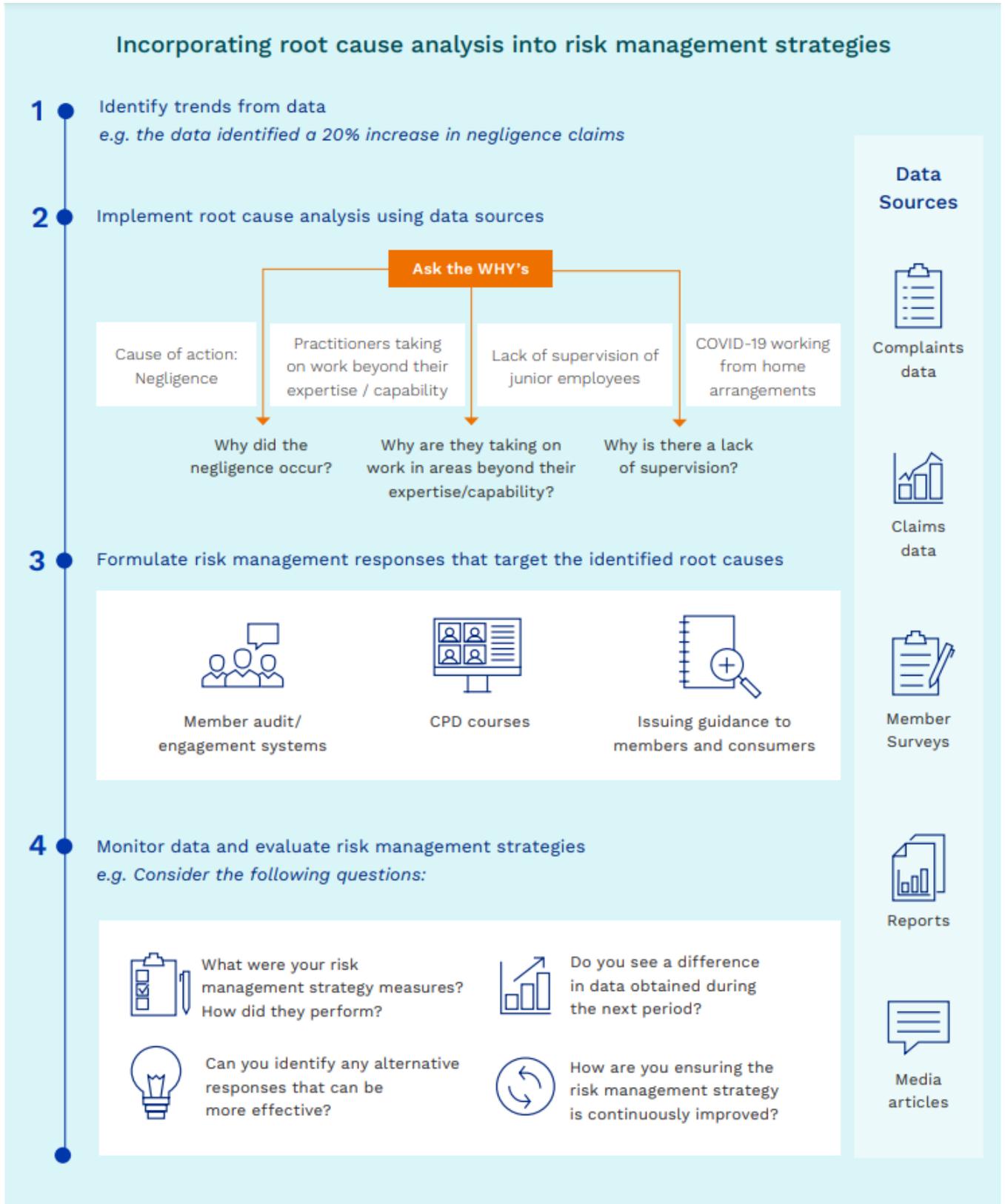
- *brainstorm ideas to fix the causes*
- *identify the resources required and get authority*
- *develop an implementation matrix*
- *appoint a project manager*
- *review progress and report*

### Evaluate outcomes & process

- *how will you measure success?*
- *establish a process to measure and assess whether the corrective actions have worked*
- *report on the change*
- *make it stick*
- *if no change, why not?*



Below is an example of how root cause analysis can be incorporated into risk management strategies.





The Councils have collated how associations have implemented root cause analysis in previous reporting years. Associations report implementing root cause analysis using the following data sources:

- considered discussions from engagements they have had with regulators and professional indemnity insurers/brokers on emerging trends or risks
- negotiated with professional indemnity insurers/brokers to provide claims data in an improved format
- reviewed data they receive from regulators and professional indemnity insurers/brokers
- reviewed data they collected regarding compliance with scheme requirements, e.g., through their audits
- reviewed reports on risks in their sector
- reviewed any other data their association collected.

Associations have reported analysing the data through:

- committees within the association (internal resources) that implement root cause analysis through reviewing and analysing the above data sources
- some associations use external consultants to assist in this process
- one association conducted root cause analysis on claims and complaints data for the past five years, including an assessment of the actions that could have been taken to prevent the issue. The analysis was used to implement continuing professional development sessions targeting problem areas.

For more information, a link to the Professional Standards Forum on Complaints as a Risk Management Tool is available [here](#) – Ms Nicole Cullen’s presentation outlines Root cause Analysis.

### **Behavioural insights**

The October 2020 *Professional Standards Forum* discussed the role of codes of ethics in delivering consumer-focused professional and occupational services. At the forum, The Behavioural Insights Team shared information on using behavioural science methods to help put the consumer first in professional ethics. The term ‘behavioural insights’ refers to what motivates and influences someone’s behaviour. The Forum included a behavioural insights workshop led by Dr Rory Gallagher of The Behavioural Insights Team.

*For more information, a link to the Forum is available [here](#) – Dr Gallagher’s workshop begins at 59:25 in the recording.*



## Appendix D

### D. RESPONDING TO CONSUMER COMPLAINTS AND CLAIMS

Aim: to demonstrate improvements in how consumers are provided with redress

The following tables align with the Scheme Application Framework:

Table(s)	Related SAF Module/Template
5 - 6	1.2.1 3.0.1
7 - 9	4.2.1
10	4.3.1a
11	3.0.1 5.1.1
11.1 - 11.2	5.0.1
12 - 12.1	5.1.1
13 - 14	3.0.1
15	4.0.1

#### Tables 5 – 9. Complaints and Disciplinary action:

Under the professional standards legislation, associations may adopt the provisions of the model code on complaints and disciplinary matters, the *Occupational Associations (Complaints and Discipline) Code* (the **Code**).

The Code sets out certain matters including:

- grounds for making a complaint
- who can make a complaint
- actions by the association after a complaint is made
- hearings, and
- actions if a complaint is substantiated.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
s.4.35(1) Sch. 5	s.38(1) Sch. 5	s.40 Sch. 1	s.40 Sch. 1	s.41 Sch. 1	s.42 Sch.1	s.41 Sch.1	s.50 Sch. 3



A complaint may be made that a member of the association has acted or failed to act in such a way as to justify disciplinary action against the member.<sup>24</sup>

Associations require an effective complaints and disciplinary system to respond to complaints from consumers and to manage the risk of harm to consumers. Complaints and disciplinary systems should inform risk management strategies and guide decision-making on what controls and mitigation activities are needed to reduce risk. Associations are encouraged to continually review, and monitor the effectiveness of, complaints and discipline systems for continuous improvement.

The information reported in tables 5-9 assists with:

- complaints and disciplinary systems: identifying changes and improvements to, and monitoring the effectiveness of, complaints and disciplinary systems
- causes of complaints and disciplinary action data: identifying risks in the quality of services provided by association members and consumer risks and harms, to inform risk management strategies, and
- professional risk management strategies: monitoring the effectiveness of risk management strategies in improving professional standards and consumer protection.

#### **Table 6. Complaints – causes**

Associations are asked to provide information about the causes of complaints made by consumers.

For the information of associations and to assist the Councils in compiling information, the following non-exhaustive list of categories is suggested (based on data provided by associations in previous years):

- Ethical issues - conflicts of interest and inappropriate conduct
- Professional Misconduct
- Non-compliance - failure to meet professional standards requirements
- Cost and fee issues - disputes over costs, billing and cost disclosure
- Negligence – advice
- Poor communication
- Failure to provide service/Service quality issues
- Lack of skill and competence
- Other (where the causes may be known but do not fit any of the categories)

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<sup>24</sup>Sch 5 cl.3(1) *Civil Law (Wrongs) Act 2002* (ACT), Sch 1 cl.3 *Professional Standards Act 1994* (NSW), Sch 1 cl.3(1) *Professional Standards Act 2022* (NT), Sch 1 cl.2(1) *Professional Standards Act 2004* (QLD), Sch 1 cl.3(1) *Professional Standards Act 2004* (SA), Sch 1 cl.3(1) *Professional Standards Act 2005* (Tas), Sch 1 cl.3(1) *Professional Standards Act 2003* (Vic), Sch 3 cl.3(1) *Professional Standards Act 1997* (WA).



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**Tables 10 – 10.2 & 11 – 11.1.** Claims and Professional indemnity insurance:

One of the cornerstones of the limited liability offered by schemes is professional indemnity insurance. Before approving a scheme, Councils will ensure that insurance is compulsory for members for at least up to the limit of liability under the scheme. This protects consumers.

Accordingly, it is important to know whether insurance is generally available to members, and affordable, otherwise there is a risk created that claims may not be covered.

**Table 12.** Top 5 causes of claims:

Associations are asked to provide as much information about the causes of claims by consumers as they can from available information, either from their members, or from information obtained from a third party like an insurer or regulator.

Similar to complaints data, information on the causes of claims assists with identifying consumer risks and harms to inform risk management strategies; and monitoring the effectiveness of risk management strategies in improving professional standards and consumer protection.

While not exhaustive, for the information of associations, and for the assistance of the Councils in compiling the information, the following categories are suggested (based on data provided by associations in previous years)<sup>25</sup>:

- Technical issues/systems issues
- Negligence – advice
- Poor communication
- Failure to provide service/Service issues
- Misappropriation, misleading & deceptive conduct
- Failure to meet professional requirements
- Conflict of interest
- Lack of skill and competence
- Dispute over costs or fees, failure to properly account for charges, or failure to provide value for money
- Unknown (where the causes may be known but do not fit any of the categories)

An example of good practice in completing this table is provided below:

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<sup>25</sup> See also the data for claims exceeding 50% of the monetary ceiling which were reported in the Councils' 2020/21 Annual Report p.62.



#	Top 5 causes of claims	Number of claims in 2022
1	<b>Personal Conduct</b> This included unethical conduct, misleading or deceptive conduct, negligent advice	252
2	<b>Communication/Bad Service</b> This included failing to carry out instructions, and failing to communicate in a timely manner	82
3	<b>Non-compliance</b> This included claims arising from failure to comply with association or regulatory requirements.	48
4	<b>Charges</b> This included excessive fees or charges and failure to properly account for fees or charges.	24
5	<b>Other</b> Claims whose causes did not fit any category	6
<b>Total</b>		<b>412</b>

**Table 13.** Data relating to all claims that exceed 50% of the monetary ceiling(s) for the reporting cycle:

Only full details of claims that exceed 50% of the monetary ceiling(s) are requested. This is on actuarial advice obtained by the Councils to ensure a scheme's monetary ceiling is sufficient.

**Table 14.** Data relating to all claims above the scheme's limitation of liability for the reporting cycle

Please contact the Professional Standards Authority if you have any questions regarding this section.

**Table 15.** Complaints and Claims - analysis

Complaints and claims data provide an indicator of risks associated with the quality of services received by consumers and risks of consumer harms.

In completing the table 15, associations report on the specific professional risk management strategies to directly respond to risks identified from complaints and claims data and how the association will monitor the effect of these strategies to minimise the risk of harms to consumers.



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The specific risks and risk management strategies identified from complaints and claims data will be inputs into Professional Risks and Related Treatment Plans.

Refer to guidance on:

- professional risk management strategies in Appendix F
- Professional Risks and Related Treatment Plans in Appendix C under Table 2.

Subject to consultation



## Appendix E

### E. SCHEME ADMINISTRATION

Aim: to demonstrate improvements in operating a scheme and other relevant details

The following tables align with the Scheme Application Framework:

Table(s)	Related SAF Module/Template
<b>16</b>	1.2.1
<b>17, 19</b>	2.4.1
<b>18</b>	2.3.1
<b>20 - 22</b>	3.0.1

#### Table 16. Changes to Governance:

In completing this table, please review the data provided in your scheme application and in previous reports, and advise if there have been any changes to your association or scheme governance arrangements during the reporting period, including rules, committees, powers and approval.

In completing table 16, associations provide an explanation of the changes, the relevant amended document, policy or instrument (as applicable), and evidence of approval by the Board, Committees or other relevant decision-making authority. For example:

- Changes to the Constitution or Charter: amended Constitution or Charter and Board approval
- Changes to membership entry requirements: amended Constitution or membership policies and Board approval
- Changes to Board and Committee architecture: amended Constitution, Organisational Chart/Committee structures, Annual Reports, delegation instruments for Committees, and Board or Committee approvals
- Changes to legislation or regulations applicable to the association: an explanation of the changes, the relevant decision-making authority and extracts/copies of the amended provisions.



**Table 17.** Member compliance with professional indemnity insurance standards:

Please contact the Professional Standards Authority if you have any questions regarding this section.

**Table 18.** Members limited liability disclosure requirements:

All scheme participants in all jurisdictions are required to disclose their limited liability status in all documents given to a client or prospective client that promote or advertise their occupation.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Sch. 4 s.4.29	s.33	s.34	s.34	s.35	s.36	s.35	s.45

In all jurisdictions except NSW and WA, scheme participants must also ensure a copy of the scheme is given to any client or prospective client. Note also in SA, the requirement to disclose extends to scheme participants' business websites.<sup>26</sup>

**Table 19.** Members' CPD requirements:

Please contact the Professional Standards Authority if you have any questions regarding this section.

**Tables 20 – 21.** Membership numbers and scheme exemptions:

In Table 20, you are asked to provide the current number of members of your association as at 31 December 2022, **and** the previous year's membership numbers as at 31 December 2021, **and** the anticipated numbers as at 31 December 2023.

The table first asks for the total number of members. Not all members may be eligible to participate in the scheme. Often, the scheme will only apply to certain classes of members, for example those who are fully qualified and certified. All other members are **excluded** from participation in the scheme. Accordingly, by subtracting those members who are excluded from the total number of members, you provide the total number of **eligible members**<sup>27</sup> in the scheme. Next, schemes often provide that members may be **exempted** from participation. This requires an application from the member, and a determination by the organisation to exempt the member from participation in the scheme. Accordingly, in the table you are asked for the number of members who have been exempted in this way. As a result, having deducted the number of members who are **excluded** and those who have been **exempted** from participation in the scheme from your total membership, the number of members who are participants in the scheme is given. From these figures, the Councils can observe any changes in the numbers and trends, and the coverage that the scheme has achieved in your occupation.

<sup>26</sup> S.35 *Professional Standards Act 2004* (SA)..

<sup>27</sup> Eligible scheme participants are the members or classes of members to whom your scheme applies following any compliant exclusions and exemptions.



In Table 21, you are also asked to provide any changes to your scheme exemption policies and procedures, details of any applications made trends in the number of applications granted or applied for and the association's response.

The analysis of trends may include trends in the number of applications from the previous reporting year and prior reporting years.

This assists Councils to properly advise the Minister on an annual basis regarding scheme participation and matters relating to occupational liability of members of occupational associations and to encourage and assist the improvement of professional standards.

For more information, see *SAF 3.0.2 Guidance – Members, or class of members, participating in the Scheme*

**Table 22. Higher discretionary caps**

A scheme can grant an association discretion to specify a higher maximum amount of liability than would otherwise apply for a person covered by the scheme. This is also referred to as a 'higher discretionary cap'. Members must apply to the association if they want to request a higher discretionary cap.

In Table 22, you are asked to provide any changes to your discretionary higher cap policies and procedures, details of any applications made, trends in the number of applications granted or applied for and the association's response.

The analysis of trends may include trends in the number of applications from the previous reporting year and prior reporting years.

This assists Councils to monitor appropriateness of the scheme liability cap, and to properly advise the Minister on an annual basis regarding matters relating to occupational liability of members of occupational associations and to encourage and assist the improvement of professional standards.

For more information, see *SAF 3.0.2 Guidance – Members, or class of members, participating in the Scheme*



## Appendix F

Associations requested guidance on the following terms used throughout the APSR:

### Effects of strategies or changes

Throughout the APSR, associations are asked to report how they are monitoring the effects of the professional risk management strategies they implemented during the reporting year.

ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Sch. 4 s.4.33(2)	s.37(2)	s.38(2)	s.38(2)	s.39(2)	s.40(2)	s.39(2)	s.49(2)

Associations are encouraged to report:

- the practical measures the association uses to assess the effectiveness of their strategies
  - measures may be:
    - quantitative, such as through data collection
    - qualitative, such as measures of satisfaction.
- how often the association monitors the measures.

An example of good practice in responding to this type of question is provided below:

*We are monitoring the effectiveness of our new CPD requirement for members to complete a CPD session on this [professional standard area] by analysing member feedback post-CPD sessions and maintaining a watching brief of claims and complaints data over the next 5 years to see if complaints and claims numbers in this area have decreased. This is the first year this CPD requirement was implemented. 65% of members noted in the post-CPD session survey that they now have a better understanding around the requirements in this area. Some members asked for further guidance material on this area. In response, we are creating an information sheet to be distributed to members.*

For more information, see *SAF 4.0.2 Guidance – Professional Risk Management Strategies*

### Occupational standards

By reporting on the areas covered by the APSR, each association is asked to provide information that relates to its occupational standards, and policies and procedures/professional integrity system, which will provide a better understanding of where the association is excelling – or might need assistance:

The main areas covered in the APSR are:

- entry qualifications
- insurance standards



- codes of ethical conduct
- professional risk management
- scheme compliance, including insurance, disclosure and continuing professional development
- complaints and disciplinary systems
- claims of over 50% of the monetary ceiling
- quality control/assurance programs
- scheme governance.

For more information, see the following SAF modules:

- 4.1.2 Guidance - association codes
- 4.2.2 Consumer complaint systems
- 4.3.2 Guidance - Member discipline system
- 2.2.1 Guidance - Insurance standards.

### **Professional risk management strategies**

Professional risk management in the context of the professional standards legislation means the operation of a system of risk management strategies based on processes designed to:

- reduce the risk of harm to consumers
- continuously improve occupational standards.

In sections of the template, associations report on the specific professional risk management strategies developed and implemented to directly respond to, and manage, identified risks.

Professional risk management strategies should be inputs into Professional Risks and Related Treatment Plans and Compliance Plans (as relevant).

For more information, see *SAF 4.0.2 Guidance – Professional Risk Management Strategies*

### **Review of standards and systems**

In several parts of the template, you are asked whether you have undertaken any reviews of certain matters, for example the effectiveness of member scheme awareness (Table 1), and risk management plans (Table 2).

Councils expect that schemes are comprised of dynamic and continuously improving standards, systems and processes, and are not static. Schemes must ensure that they take into account matters such as emerging risks and industry trends in their operation. Accordingly, periodic reviews by appropriately qualified people are necessary to determine whether a scheme is still 'fit for purpose'. Such reviews can be undertaken internally by properly qualified staff, or by external consultants.



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Reports of reviews should be made available to the appropriate committee with oversight of the scheme, for example the Compliance or Professional Standards Committee, for consideration of the report, and determination of actions in response.

### **Significant events**

During the year, you are required to report a significant event, change or development which affects the scheme, as soon as practicable. Councils need to be aware of these matters since they may affect professional standards and harm consumers.

Such events may include:

- Financial issues which threaten the viability of the scheme as a going concern
- Operational issues which impede the scheme's operations, such as IT or systems outages or failures
- Environmental events, such as a global health or geopolitical crisis
- Industry developments, such as government inquiries, government reports, new products, services or regulation which have a material effect on the membership
- Major litigation involving the association or its members

Subject to consultation



## Appendix G

### Overview of tables in the APSR

Table No.	Table Title
1	Raising awareness and understanding of the scheme
2	Scheme Compliance and Professional Risks and Related Treatment Plans
3	New risks added in the reporting year
4	Professional risk management tools
5	Complaints data (suggested)
6	Complaints - causes
7	Average Time to Resolve Complaints
8	Complaints systems
9	Disciplinary action taken against members
10	Claims data - systems
10.1	OPTIONAL table - Professional indemnity insurance notifications, claims and settlement data
10.2	OPTIONAL table - Claims Monitoring Committees
11	Affordability and availability of professional indemnity insurance
11.1	OPTIONAL table – Engagement with Insurers
12	Top 5 causes of claims
13	Data relating to all claims that exceed 50% of the monetary ceiling(s) for the reporting cycle
14	Data relating to all claims above the scheme's limitation of liability for the reporting cycle
15	Complaints and Claims data – professional risk management strategies
16	Changes to Governance
17	Member compliance with professional indemnity insurance standards
18	Members limited liability disclosure requirements
19	Members' CPD requirements
20	Association membership numbers
20.1	OPTIONAL table - Governing and monitoring scheme membership
21	Scheme exemptions
22	Higher discretionary caps
23	Annual Membership Assurance Report
24	Comparison of Professional Standards Improvement Program and Annual Professional Standards Report