



PONY CLUB ASSOCIATION of QUEENSLAND

RISK MANAGEMENT POLICY

Adopted from

PONY CLUB AUSTRALIA Inc.

NATIONAL RISK MANAGEMENT POLICY

The Pony Club Association of Qld Inc	PCAQ Risk Management Policy
Policy number	PCAQ – Pol 2
Date Reviewed	01/05/2012, 19/09/2015
Related Policies	

TABLE OF CONTENTS

1.	RISK MANAGEMENT.....	3
1.1	What is Risk Management?.....	3
1.2	What is it for?	3
1.3	Policy Review	3
1.4	Risk Management Officer/s.....	4
1.5	Responsibility	4
2.	WHO CAN CREATE A RISK?.....	4
3.	WHO MAY SUFFER A LOSS?.....	6
4.	AREAS OF RISK	6
4.1	Negligence.....	6
4.2	Workplace Health & Safety.....	8
4.3	Award Entitlements	9
4.4	Associations Incorporation Act Requirements	9
4.5	Financial Risk.....	10
4.6	Defamation	11
4.7	Nuisance.....	11
4.8	Discrimination.....	12
4.9	Sponsorship.....	13
4.10	Selection and Event Rules	13
5.	INSURANCE.....	14
5.1	Relevance	14
5.2	Appropriate policy coverage.....	14
6.	RISK ASSESSMENT.....	15
6.10	Quick Guide to assessing Risk.....	15
6.20	Risk Assessment Matrix.....	15
	ANNEXURE A	16
	LIABILITY OF DIRECTORS & COMMITTEE MEMBERS OF SPORTING ORGANISATIONS – A GENERAL SUMMARY.....	16

PONY CLUB ASSN OF QLD AND ASSOCIATED CLUBS AND/OR ASSOCIATIONS RISK MANAGEMENT POLICY

This Policy is intended as a risk management program for Pony Club Association of Queensland and associated Clubs and Organisations, hereafter referred to as PCAQ.

1. RISK MANAGEMENT

1.1 What is Risk Management?

Risk management involves minimising risks facing PCAQ, affiliated clubs and their members (collectively referred to as the Sport), whether appearing in the form of financial loss or physical injury or damage or abuse.

It includes a number of steps summarised as follows:

- Identifying risks which threaten the well being of the Sport,
- Assessing the importance of those risks and the consequences to the Sport if they are ignored. The focus generally is on safety issues and minimising potential litigation,
- Designing a process to eliminate or minimise those risks,
- Taking all possible steps to comply with that process,
- Constantly reviewing the process so that it can be improved and grow to suit the needs of the sport.

1.2 What is it for?

If risks are not controlled, a number of potential consequences flow from those risks. In particular, the Sport or a section of it must consider the following:

- Extensive financial liability may have to be met by the Sport, limiting the funds that can be channelled directly into its true purposes,
- Physical injury, abuse or financial loss may be suffered by riders, instructors, stewards, judges, officers, volunteers or the public if proper attention is not given,
- Limiting costs by minimising insurance premiums,
- The reputation of the Sport may suffer if safety and accountability are not observed
- It is now a condition of State Government funding that a suitable risk management strategy operates and inactivity may deprive the Sport of significant contributions; and
- PCAQ, affiliated clubs and/or its members and officials may be sued or fined for failing to comply with various legal obligations.

1.3 Policy Review

A policy governing the broad range of risks facing PCAQ affiliated clubs and associations cannot be written in stone. As it is implemented, it will become apparent that some processes are manageable while others require variation to suit particular circumstances.

It is imperative that all people responsible for complying with the policy are turning their minds to ways in which activities in their domain could be improved. This applies to officials, instructors, riders, stewards, judges, officials, employees, contractors, PCAQ and affiliated clubs as a whole.

This policy should not be a document which states appropriate guidelines for all time. As new risks are identified they should be reported and, if necessary, the policy should be reviewed and revised.

1.4 Risk Management Officer/s

A Risk Management Officer (RMO) may be appointed on behalf of PCAQ and each affiliated club or association to be responsible for acting as the control point for the policy.

Until an RMO is appointed the management committee of each is responsible for the implementation of this policy. In the absence of an RMO the management committee will be required to:

- Where practical, prepare duty statements for each class of person providing services by or on behalf of PCAQ affiliated clubs or associations to supplement material in Annexure "C" where required;
- Where practical, prepare procedure manuals or checklists to set out the appropriate steps to be followed in complying with this policy's requirements to supplement material in Annexure "C" where required.
- Take steps to find out whether PCAQ or the affiliated club or association complies with the agreed policy. The checklist at Annexure A will assist this process;
- Make enquiries and receive feedback from people involved in implementing the policy to find out whether change is desirable;
- Report any developments to the management committee to ensure that it is advised of the policy status and operation.
- Each affiliated club and association should appoint its own RMO, who will liaise on issues of policy and procedure with PCAQ's RMO.

Until an RMO is appointed the management committee of the affiliated club or association is responsible for the implementation of this policy.

All affiliated clubs should complete the checklist (**Annexure A**) and return it to the Club RMO no later than 31st March in each year.

1.5 Responsibility

While the RMO is specifically nominated to oversee the implementation and direction of the policy, that does not relieve all others of responsibility for risk management. It is vital that all affiliated clubs and associations, members, riders, instructors, stewards, judges, officers and agents of PCAQ understand their role in complying with aspects of the policy which relate to them. Because they are the people carrying out the policy on a day to day basis, they are also the people best placed to identify problems with it and recommend a range of improvements.

People in all of these categories have the ability to cause injury or loss through a failure to appreciate and avoid risks. In the interests of PCAQ, affiliated clubs and associations and its members, it is vital that they understand their responsibilities under this policy.

2. WHO CAN CREATE A RISK?

The following people might cause loss or injury by failing to take steps to avoid risk:

- Officers, stewards and judges of PCAQ, affiliated clubs and associations;
- Riders/participants, members;
- Instructors;
- Agents of the Sport (i.e. employees, contractors, coaches, doctors, volunteers);
- Affiliated clubs; and
- Management committee/s (including sub-committees).

The risks identified in this policy do not necessarily affect each and every category directly. The table below sets out the areas in which each class of person must direct their attention as falling within their responsibility.

Who can create a risk:

Description of Risk	Officers/Judges/Stewards/Coaches	Riders/Participants/Members	Agents	Clubs/Affiliated Bodies	Management Committee & Office Bearers
Negligence	•	•	•	•	•
Workplace Health & Safety Act requirements	•	•	•	•	•
Commission for Children & Young People and Child Guardian Act (and Regulations) requirements	•	•	•	•	•
Award Entitlements				•	•
Associations Incorporation Act (and regulations) requirements				•	•
Contractual Obligations	•		•	•	•
Defamation	•	•	•	•	•
Nuisance	•	•	•	•	•
Discrimination	•		•	•	•
Insurance	•			•	•
Sponsorship	•	•	•	•	•

Obligations of Office Bearers

Officers of PCAQ, affiliated clubs and associations are obliged both under general law and by statute to observe certain standards in carrying out their duties as directors. A failure to comply with these minimum standards may expose the officer to a broad range of claims by PCAQ, affiliated clubs and associations or other people suffering loss.

The general law requires a director to take reasonable care in carrying out his functions, taking into account the director's skill, knowledge and experience. The director must also act honestly, taking care to avoid conflicts between the duty to PCAQ, affiliated club or association and either duties to other organisations or personal interest.

The Corporations Law imposes similar concurrent obligations, which allow for a civil penalty to be imposed when they are breached.

PCAQ, affiliated clubs and associations is/are entitled to claim against an officer who has breached one of these duties for any gain made by the officer or loss suffered by PCAQ an affiliated club or association as a result.

There is a misconception that officers are free from liability if PCAQ, the affiliated club or association has been incorporated. This is clearly not the case and an officer may still be held responsible for some liabilities. Officers should read and understand Annexure B on directors' duties before taking up office.

3. WHO MAY SUFFER A LOSS?

The Sport can be liable to a wide range of people or organisations. Many of those capable of causing loss are also susceptible to suffering a loss. That loss, in many cases, can be sheeted home to the Sport because of a failure to manage the risk. That range includes the following:

- Riders/participants, members;
- Instructors, coaches;
- Agents of the Sport;
- Stewards, judges or officers;
- Members of the public;
- Affiliated clubs and associations.
-

So far as these types of people or organisations are concerned, the loss may be physical (in the sense of an injury or abuse) or may be financial (in the sense of causing that person some form of financial expense or loss of opportunity). There are also risks, which may result in fines, penalties or cancellation of registration, which are imposed because PCAQ, the affiliated club or association fails to comply with an obligation imposed by law.

The following topics set out areas of significant risk, which may lead to loss or injury.

4. AREAS OF RISK

4.1 Negligence

(a) Risk

The purpose of this section is to minimise liability which results from PCAQ, an affiliated club or association or one of its agents, stewards, judges, officials, or a rider, instructor failing to take reasonable care to avoid foreseeable risks of injury to others. The result of negligent behaviour may be physical damage or injury or financial loss.

(b) Managing the Risk

Foreseeable risks are apparent in a wide range of activities within the Sport. The principal rule for all people at all times is to consider the potential consequences of any act or any failure to act. Riders should comply with the guidelines set out in the Pony Club Manuals No.'s 1 and 2. Instructors should comply with the guidelines set out in the Pony Club Manuals No's 1,2 and 3 any PCAQ, affiliated club or association Work Manuals for instructor Levels.

Key areas, which should be considered include:

SUPERVISION –

Where practical, the RMO shall establish a practice of requiring use of facilities to occur only with adequate supervision.

In particular, instructors present at events or other activities run by the Sport should ensure that all facilities, equipment or other property at Association or affiliated club premises are being used properly and in a manner which minimises the risk of injury. Special attention should be given to young and/or inexperienced riders who may be more likely to cause injury to themselves, other riders, onlookers, the public or any personal property.

In particular, the instructor should intervene if there is reason to suggest an unacceptable risk is being taken, ie use of an inappropriate horse or the taking of an unacceptable risk in view of the rider's experience and ability. In cases where there is a risk but that risk is reasonable or inherent to that particular activity or exercise, the instructor should explain the risk to the rider and ensure that the risk is understood.

As it is not practical to do so, the RMO is not obliged to notify persons in parental control who are not in attendance at an event of the risks and dangers inherent in taking part in equestrian sport or training. It is reasonable to expect that persons in parental control of riders in attendance at an event would be aware of the risks and dangers involved in equestrian sport or training.

EVENT SAFETY –

All participants involved in events or other activities run by PCAQ, affiliated clubs and associations are entitled to expect that the event or activity is conducted in a safe manner and care will be taken for their safety. For the guidance of clubs, a guide to event safety is in **Annexure C**.

All participants in events or other activities run by PCAQ, affiliated clubs and associations will be required to sign a formal release (**see Annexure D**) releasing PCAQ, the affiliated clubs and associations from liability to the participant for loss or injury suffered. The membership or participation of a rider who is not prepared to sign the release should be refused.

MEDICAL TREATMENT –

Where reasonably practical, the RMO should ensure that all Association or club riding activities are supported by proper medical facilities. This will include:

1. A first aid kit maintained on the premises or at the activity is away from the premises;
2. Where reasonably possible, a suitably qualified medical practitioner available at short notice in the case of serious emergency;
3. The presence of a person, preferably an instructor, suitably qualified to administer first aid if required. Instructors should refer all injuries that are not of a minor nature to a qualified medical practitioner; and
4. Facilities should be available at all venues for the purpose of contacting emergency services immediately.
5. People other than qualified medical practitioners should not be administering drugs to riders or any other people.
6. First aid kits should be regularly checked and be easily accessible in the case of emergency.

ACCESS WAYS –

The RMO should ensure that there is adequate access to amenities should emergency services be required.

TRAVEL –

When riders, instructors or officials travel together to venues as a team under the authority of PCAQ, an affiliated club or association, a supervisor will be placed in charge of the team and must be responsible for supervising the conduct and behaviour of the team members. The team members must comply with any direction or request of the supervisor to ensure that all risks or injury or property damage to team members or the public are avoided.

Other areas which are to be monitored under the authority of the RMO include:

BUILDINGS AND STRUCTURES –

The RMO should ensure that all buildings are structurally sound and periodically inspected, cleaned and repaired. A safety audit should be conducted of facilities at which PCAQ, affiliated clubs or associations conduct activities.

FOOD AND BEVERAGES –

The RMO will use best endeavours to ensure that any food or beverages provided at PCAQ, affiliated club or association endorsed events complies with and has been prepared in accordance with appropriate health standards. Any items that do not should be removed from stock, whether intended for sale or otherwise.

If alcohol is to be provided, adequate control must be ensured by the RMO by supplying security to control any unruly patrons and to ensure that all relevant liquor licences are obtained and complied with.

SKIN CANCER –

it is prudent to provide, whether by sale or otherwise, suitable safeguards against the risk of skin cancer for instructors, riders, stewards, judges, officials and spectators. Consideration should be given to making available, whether by sale or otherwise, sunscreen, sunglasses and hats. Instructors should be encouraged to recommend sun safe practices to the riders so far as is possible within the limits of their programs.

CONSTITUTIONAL POWERS –

officers exercising disciplinary powers must ensure that they are acting in accordance with their relevant constitution and/or by laws and the minimum requirements of Queensland Government Incorporation Act.

In particular, natural justice should be granted to the person in question, by advising them of any allegation, allowing them time to consider their position and then granting them an opportunity to respond. Any penalty to be imposed, whether by way of fine or suspension, must be in accordance with the rules.

MANDATORY SAFETY RULES –

consideration should be given to enacting mandatory rules and procedures for the safety of riders or other participants, for example protective equipment, and safe riding protocols.

SANCTIONING EVENTS –

if PCAQ has a practice of formally sanctioning Official Events organised by affiliated clubs, associations or private event promoters, it should only do so with the utmost caution having ensured that appropriate risk management procedures are in place by the event organisers, the event organisers are appropriately qualified and experienced and that legal advice about the proposed sanction, terms of sanction and advertising of the sanction is first obtained. In the absence of these precautions, PCAQ, affiliated clubs or associations might be exposed to legal claims that an affected person might otherwise have had only against the affiliated club, association or event organiser. If PCAQ chooses to sanction an event, the affiliated clubs, associations or private event promoters organising the event must enter into a Sanctioning Agreement with PCAQ, in the form attached as **Annexure E**.

4.2 Workplace Health & Safety

(a) Risk

This section attempts to avoid prosecution for offences under the Workplace Health & Safety Act 1995 (as amended). The Act imposes obligations on both employers and people in control of workplaces to ensure that the risk of injury is minimised for all people who come onto the workplace. In a sense, it is similar to negligence where reasonable care must be taken except that liability is strict and focuses less on the degree of care taken and more on the resulting safety of the workplace. It also places an obligation on workers and on other people (including

members, riders, instructors, stewards, judges, volunteers, the public) coming onto the workplace to act responsibly and to comply with any instructions given.

If a workplace is considered unsafe, a workplace health and safety inspector may issue a notice requiring the problem to be rectified. If it is not rectified within the time specified in the notice, the occupier may be prosecuted for the commission of an offence. However, even if the workplace has not been reviewed by an inspector and an injury is suffered because of an unsafe work practice, a prosecution may result automatically.

Because PCAQ, affiliated clubs and associations can be fined for breach of their obligations, it is important that all areas be assessed and reviewed under the authority of the RMO in the context of precautions under the "Area of Risk – Negligence" section above.

Unlike negligence, a workplace health & safety fine is essentially a criminal prosecution for which insurance may not extend. For this reason, it is even more important that these initiatives be observed. Instructors in the employ of PCAQ, affiliated clubs or associations or acting on a voluntary basis must have a minimum Level 0 qualification and are required to comply with the guidelines contained in Annexure C.

4.3 Award Entitlements

(a)Risk

The purpose of this section is to avoid liability arising out of a failure to comply with industrial awards. There is a strong probability that a number of employees (not being managerial employees) of PCAQ affiliated clubs or associations are governed by one or more industrial awards. These awards are determined by the Industrial Relations Commission and set minimum standards for employers to comply with in relation to wages, hours of work, leave, overtime and allowances.

A failure to comply with award entitlements may leave PCAQ, an affiliated club or association liable to:

Pay entitlements owing, which may relate to significant sums of money built up over a long period; and/or

Prosecution for breach of the award.

(b)Managing the Risk

Enquiries should be made under the authority of the RMO to determine any applicable awards and their minimum entitlements. Those enquiries can be carried out by obtaining legal advice or contacting the Department of Education, Training and Industrial Relations.

4.4 Associations Incorporation Act Requirements

(a)Risk

The purpose of this section is to ensure that PCAQ, affiliated clubs and associations avoid statutory penalties and maintain their status under the relevant Queensland Government Incorporation Act. If the incorporation is cancelled, PCAQ, an affiliated club or association loses the benefits which flow from holding corporate status.

(b)Managing the Risk

It is important to ensure that PCAQ, affiliated clubs and associations:

- Limit operations to stated objects;
- Refrain from any activities which are contrary to the public interest;
- Through the relevant management committees comply with all accounting, record keeping, audit and statement obligations each financial year;

- Hold an annual general meeting within three months after the previous financial year ends.

Failure to comply on any occasion will not automatically place incorporation at risk. However, a discretion to take action rests with the Chief Executive Officer under the act and it is prudent to avoid placing PCAQ, affiliated clubs and associations in unnecessary jeopardy.

4.5 Financial Risk

(a)Risk

This section is designed to safeguard against extensive financial commitment on the part of PCAQ, affiliated clubs or associations as a result of the acts of an officer or agent. An officer or agent may place himself in a position to represent that he has the authority of PCAQ, an affiliate club or association and enter into arrangements with third parties in terms of sponsorship, supplies of goods, supply of equipment, consulting or service arrangements.

Provided that it is reasonable for the third party to assume that PCAQ or the affiliated club or association has authorised the arrangement, a binding arrangement at the agreed price is reached.

(b)Managing the Risk

Funds of PCAQ will be held in an account at a Bank nominated by the Management Committee, under the authority of the treasurer and the elected office bearers who will have the authority to draw from the account and sign cheques on behalf of PCAQ. The treasurer will also be responsible for maintaining books of account and other financial records of PCAQ, which be audited as required by the club constitution or rules and a report presented to the management committee meeting. Affiliated clubs and associations should adopt similar practices appropriate to their constitutions.

In many cases, PCAQ, affiliated clubs and associations will enter into arrangements with third parties that do not involve large sums of money. Commitments that are not of a serious nature are unlikely to upset the financial viability of PCAQ, the affiliated club or association. To require formal approval on each of those occasions would result in administrative inconvenience.

However, for arrangements having a value in excess of \$100 or which, regardless of value, relate to sponsorships or employing staff, no person must represent that they have the authority to bind PCAQ, the affiliated club or association without the formal approval of the management committee.

4.6 Defamation

(a)Risk

The purpose of this section is to avoid liability rising out of written or spoken statements made by or on behalf of PCAQ, an affiliated club or association or by any of their agents.

A statement will be defamatory if it is published to another person (whether that be in private, at a public meeting or to a journalist) and is likely to injure somebody's reputation or their trade or profession or is likely to cause others to shun, avoid, ridicule or despise them.

If a statement is made that falls within this definition, and the person making the statement does so in their capacity as an officer or representative of PCAQ or an affiliated club

or association, the person whose reputation is injured may bring a claim against both the maker of the statement and PCAQ, the affiliated club and/or association to obtain compensation.

(b)Managing the Risk

The best means of avoiding the risk is to say nothing that is ever likely to affect another's reputation in a negative way. That may not always be realistic and the law recognises a number of situations where these types of statements are acceptable.

If a statement is to be made, and it is intended to convey information or an opinion which is critical of any person, the maker of the statement should consult at the very least with the management committee, who will assess whether legal advice should be taken.

If a statement has been made without vetting it through the established procedure, it should be reported to the management committee so that steps can be taken to rectify the situation by taking legal advice, issuing an apology or consulting with the aggrieved person.

4.7 Nuisance

(a)Risk

The purpose of this section is to avoid repercussions from members of the public who are victims of substantial and unreasonable interferences with enjoyment of their residences. The most relevant interferences come from excessive noise levels, bright lighting, parking problems or disrespect for private property.

(b)Managing of the Risk

Steps should be taken to ensure that where potential nuisances cannot be avoided, they can be reduced to manageable levels and imposed with suitable public relations. For example:

- Noise and lighting levels should be monitored at events which take place in suburban or residential areas on a regular basis. The noise level should not exceed a volume which is adequate to serve its intended purpose.
- For a one-off event, it is prudent to provide information accessible to likely complainants through signage or advertising so that they will have maximum notice of any potential inconvenience. Also provide a contact phone number so that annoyances can be nipped in the bud before they escalate.
- Control should be exercised over the levels of alcohol (if any) consumed at authorised events. Care should be taken to ensure that the risk of patrons overindulging is minimised and, for larger events, some form of security to control unruly patrons is advisable. Ensure that the PCAQ Alcohol Policy is strictly enforced.
- Riders who may travel to and from events or activities of PCAQ, affiliated clubs or associations should take care to respect the privacy and property of residents or other road users along the particular route.

4.8 Discrimination

(a)Risk

The purpose of this section is to prevent complaints being made against PCAQ, affiliated clubs and associations for unlawful discrimination or sexual harassment. PCAQ, affiliated clubs and

associations are obliged to ensure that neither they nor any of their officers or agents:

- Unlawfully discriminate against any employee or member; or
- Engage in sexual harassment of any person

Unlawful discrimination will occur if a person is treated differently because of a particular characteristic including;

- Marital status;
- Sex;
- Pregnancy;
- Age;
- Race;
- Impairment;
- Religion;
- Political belief

It is important that PCAQ, affiliated clubs and associations take steps to eradicate any discrimination or harassment as they are deemed to be responsible for the acts of their employees or agents.

Of some importance is the issue of disability. Singular treatment of some people with a disability will be lawful if it is appropriate in the circumstances eg safety considerations may limit certain activities if the impairment creates an unacceptable risk.

(b)Managing the Risk

All officials, employees and agents should be aware of the minimum requirements of anti-discrimination legislation. As a general rule, decision makers should specifically assess whether they might be relying upon one of the specific criteria when making a decision. Those decisions may involve whether to grant or deny membership, select in a team, provide a benefit, impose a penalty, grant or deny access to a facility, employ or dismiss, allocate work or grant promotion.

In many cases, discrimination may appear to be necessary for good reason and the legislation specifically allows for exceptions. If there is any doubt about whether discrimination might be taking place, the matter should be referred to the management committee who will then determine whether to seek legal advice.

No contact of an intimate or sexual nature may occur between instructors and riders with whom they are associated in the course of instruction or competition.

4.9 Sponsorship

(a)Risk

The purpose of this section is to limit conflict between riders and PCAQ, affiliated clubs and associations due to their private sponsorship arrangements.

Difficulties can arise if a rider's personal sponsor is an industry competitor of an official sponsor of PCAQ, an affiliated club or association, placing the prospect of ongoing sponsorship at risk.

(b)Managing the Risk

Riders should be encouraged to consult with PCAQ, affiliated clubs and associations before agreeing to a sponsorship to determine whether the deal would cause any conflict with an existing arrangement.

PCAQ, affiliated clubs and associations must ensure that they do not oblige a rider to sign mandatory contracts for participation in a particular team or trip which might require riders to

breach pre-existing sponsorship or other obligations to third parties. Particular care should be taken to consult with relevant riders and take appropriate legal advice.

4.10 Selection and Event Rules

1. Risk

It is important that any selection criteria which have been advised to riders are observed whenever teams are selected. The same can be said for the need to comply with specific event rules set down by PCAQ, affiliated clubs and associations.

A failure to do so may expose PCAQ, affiliated clubs or associations to embarrassment, internal dispute and potential litigation at the instigation of a disgruntled rider. Once a rider is advised that selection is to be based on certain criteria, he or she is entitled to expect selection if those criteria are met.

2. Managing of the Risk

The most risk averse means of avoiding liability in selection disputes is to refrain from specifying formal criteria and leaving the selection committee a broad discretion, which is exercised by looking at all factors which are relevant to selection. Factors which are irrelevant or improperly motivated should not be relied upon to exclude a rider deserving of selection.

In some cases, the relevance of some considerations will not be clear in the circumstances. On those occasions, legal advice should be sought to establish the criteria which may enable a rider to be excluded from selection.

PCAQ, affiliated clubs and associations have established rules for:

- Showjumping;
- Dressage and combined training;
- Horse trials;
- Scoring;
- Uniforms and saddlery;
- Jumping Equitation;
- Sporting;
- Campdraft; and
- Mounted Games

All people involved in events governed by formal rules must comply with those rules. Any problem with the operation of rules should be brought to the attention of the appropriate person, the appropriate discipline sub-committee or the management committee in accordance with competition and administration rules as provided in **Annexure C**.

5. INSURANCE

5.1 Relevance

The purpose of this section is to provide an effective protection against liability when;

- The risk management procedures fail; or
- An unforeseen event occurs, which causes loss or damage to another.

Insurance should always be regarded as a last resort. Maintaining comprehensive insurance is not an appropriate substitute for a properly implemented risk management plan. This is because;

- Not all risks are insurable or fully insurable and coverage might be denied in certain cases; and
- Risk prone sports making numerous claims (or a small number of high value claims) eventually will find insurance premiums to be prohibitively expensive putting at risk the financial viability of the sport.

5.2 Appropriate policy coverage

Although not all risks are insurable, policies should be held (and complied with fully) by PCAQ (and, where appropriate, affiliated clubs and associations) in the following areas:

(a)Workers' Compensation

Employers are obliged by law to maintain a workers' compensation policy for all paid employees. The insurer is Workcover Queensland and the policy will extend to all work related illnesses and injuries.

(b)Public Liability Insurance

A policy should be maintained covering the liability for compensation relating to personal injury or property damage caused by members, instructors, volunteers, PCAQ, affiliated clubs and associations. It is important regularly to review the scope of the insurance to make certain that all potential contingencies are covered, with particular references to the scope of the activities of PCAQ, affiliated clubs and associations.

(c)Directors and Officers Liability and Professional Indemnity Insurance

Policies should be maintained to indemnify for loss arising from acts or omissions of officers of PCAQ and affiliated bodies, including management committee members, instructing judges, stewards, or other officers.

(d)Accident Insurance

A policy should be maintained to provide compensation for loss suffered by riders during performance which does not result from any negligent act or omission, but arises simply from the inherent risks in active participation. This is particularly important in a potentially hazardous activity such as horse riding.

(e)Motor Vehicle Insurance

Any vehicles owned or used by PCAQ, affiliated clubs and associations should be Registered with Queensland Transport, and in doing so, have a current compulsory third party insurance policy for personal injury caused by it. There should also be a policy of third party property damage to cover liability to compensate for physical loss other than personal injury. In the case of expensive vehicles, consideration should be given to a comprehensive policy that allows the owner to claim for damage sustained to the vehicle, whether through negligence or otherwise.

The RMO must undertake a review of the insurance policies maintained by PCAQ, affiliated clubs or associations. The review will occur annually or from time to time if there is a change in the

circumstances of PCAQ, the affiliated club or association indicating a need for broader coverage. Regard should be given to the areas covered by the policies and the maximum levels of coverage for each type of claim.

6.0 RISK ASSESSMENT

6.1 Quick Guide to Assessing Risk

Risk can be influenced by two main factors:

- The likelihood of it actually occurring, and
- The extremity of the consequences if it did occur

ANNEXURE A

LIABILITY OF DIRECTORS AND COMMITTEE MEMBERS OF SPORTING ORGANISATIONS – A GENERAL SUMMARY

To comply with this policy, and to minimise personal risk to Officers, all clubs must be incorporated, however, it is incorrect to say that Directors or Officers of incorporated sporting organisations will not be liable for any of their decisions.

The law imposes certain obligations and duties upon office bearers, including:

- They must act in good faith, in an honest manner and in the best interests of the Company/Association and the members.
- They must use due care and diligence in carrying out the functions of the office and in applying powers associated with that office.
- They must not take improper advantage of their office.
- Should they in the course of their duties on the Board/Management Committee, receive information of a confidential nature relevant to the Company/Association, then it is seen to be improper to disclose this information or allow it to be disclosed unless disclosure has been authorised by the Company/Association.
- They must not allow personal interests, or the interests of Individual members, to conflict with the interests of the Company/Association.
- They have an obligation to behave in an independent manner and to take reasonable steps to satisfy themselves as to the soundness of the decisions made and action taken by the Board/Management Committee.
- They must not engage in conduct that may discredit the Company/Association in any way.
- They have an obligation to comply with the spirit of as well as the principles of Corporation Law and the constitution of the Company/Association.
- They must make every effort to attend all Board/Management Committee meetings and only where not possible appoint an alternate director to act in their place. Should they regularly find themselves unable to attend meetings they should consider resigning from their position

If an office bearer is in breach of these duties, he or she may be liable to the organisation or others for any loss or damage suffered as a result of the breach.

If you do not understand these concepts, you should not act as a director or committee member.

Insolvent Trading

Officers who fail to prevent organisations from incurring debts when there are reasonable grounds for suspecting that the organisation is insolvent are personally liable for those debts where:

- The officer was aware of those grounds; or
- A reasonable person in like circumstances would have been aware of those grounds.

All officers should monitor the financial performance and liabilities of the organisation at all times. If you are only a “volunteer” director, you will not be saved from liability by your status or your ignorance. If you are not prepared to fully monitor financial performance, you should not be a director or committee member.

Negligence

Just because an organisation is incorporated does not mean that its officers are absolved from claims in negligence. If the officer is negligent, he or she can be sued even if PCAQ, the affiliated club or association can also be sued or PCAQ, the affiliated club or association is insured. The rules of PCAQ, the affiliated club or association may provide for the officer to be indemnified in certain circumstances but this does not mean that a negligence claim cannot be made.

Insurance may not cover these potential liabilities adequately or at all. The best “insurance” is:

- The implementation of comprehensive risk management practices applicable to each particular situation; and
- Only to accept the office of director or committee member if you fully understand the duties of that office and are prepared to discharge them