

MEMO

TO: SQUASH AUSTRALIA
DATE: 26 MARCH 2020
FROM: MARSH SPORT
SUBJECT: SPORT INSURANCE PROGRAM RESPONSE TO COVID-19

The Australian sporting community has been greatly affected by the outbreak of Novel Coronavirus (2019-nCoV) and we are seeing developments on a daily basis that impact our clients.

Clubs, coaches and members are at the heart of the community, and we want to provide some information in regard to how your sport's insurance program may respond to the current declared Pandemic COVID-19.

Personal Accident insurance policies provide cover for injury only, there is no sickness cover provided with this policy. Therefore this policy will not respond to illness as a result of COVID-19.

Public Liability/Professional Indemnity policies may respond to pandemic events if the insured has been negligent in, or found legally liable for, failing to protect other persons/third parties from infection.

The term "legally liable" is very broad although it envisages civil liability rather than criminal liability. Legal liability can arise at common law or under statute or a contract with a third party. Most common law liabilities involve a negligent act or omission, that would need to be proved. We consider the possibility of such liability to be fairly difficult to prove if insured **act reasonably to safeguard persons** for which they have a duty to protect. However, such coverage could be triggered if liability is legally present or established

Legal liability is generally necessary for this coverage to be triggered. If there is liability, then the policy will respond subject to the Policy's limits. It's also very important that all insureds act reasonably to adhere to their duty of care.

The Management Liability policies are unlikely to be triggered by this event and the cover also has an exclusion in place with respect to bodily injury, sickness and disease.

Loss of income is often covered under Personal Accident insurance policies, and usually triggered as a result of an injury whilst performing sporting activities. Unfortunately, there is no cover in place for loss of income due to current government guidelines around forced shut downs of sporting events and large gatherings of people.

Property Insurance/Business Interruption Our clubs and coaches have many different property policies with various insurers and therefore policy wordings may respond differently. On the whole however there is generally an exclusion for any business interruption due to quarantinable disease under the Quarantine Act 1908*.

We have reviewed the policy wording of one of the most commonly used insurers and the way the business interruption section works; the policy will respond to cover closure or evacuation of the premises due to



contagious disease. However, this would not extend to diseases deemed quarantinable under the Quarantine Act 1908.

**The Quarantine Act 1908 was replaced by the Biosecurity Act 2015 (Biosecurity Act). The Biosecurity Act lists certain quarantinable diseases and where they do so, no cover exists under policies with the exclusion. COVID-19 was added to the list on the 23/01/2020 rendering most cover under insurance policies inoperable.*

Unfortunately, now that COVID-19 has been deemed a quarantinable disease, this type of policy will not respond.

Overall, it's imperative that all clubs, associations, coaches and members adhere to the current government requirements and continue to monitor the requirements frequently.

We are here to support you during this time - any questions from clubs, coaches or members should be directed to our team who are available to assist:

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