

# Beazley Safeguard

## Common Misconceptions

Since 2006, Beazley has been providing risk management guidance and insurance to institutions that face risks relating to sexual molestation liability (SML). In 2014, we launched Beazley Safeguard, which combines advanced risk management and proactive crisis response services with effective insurance. Over this time, we have encountered a number of misconceptions amongst both brokers and insureds about SML exposures and the nature of the coverage available to address it.

### **Misconception 1:**

**There will be coverage under a general liability (GL) policy**

Many assume that there will be coverage for sexual abuse claims under a GL policy, but such an approach is increasingly risky. Many GL policies are silent on the existence or extent of SML coverage provided. In recent years, as allegations and litigation involving sexual abuse have increased significantly in the US, many GL insurers have moved from a position of silence to one of express exclusion, or to offering a reduced sublimit, which may not provide sufficient comfort to insureds.

We have also seen a trend in the US for various organisations (including universities, school boards and municipalities) to *mandate* that any contractors undertaking work for them have standalone/affirmative coverage for SML, often with specified limits. Contractors will need to prove the existence of such coverage during the tendering/contracting process.

Various factors therefore encourage insureds and their brokers to seek affirmative, standalone coverage, which Beazley Safeguard provides, alongside risk management and crisis management services.

### **Misconception 2:**

**Underwriters will not write excess claims made over an occurrence wording**

The incident response services that are part of Beazley Safeguard are only offered when coverage is provided on a primary basis. But SML liability coverage can be offered on an excess basis. In this situation, we often encounter a misconception on the part of brokers that we will not consider writing an excess claims made policy over a primary occurrence wording. This is not the case. While we prefer to take a primary position, or to sit excess of a claims made primary policy, we will sit excess of an occurrence wording and have done so for a significant number of risks. The excess policy in this instance is written on a non-follow basis and simply treats the underlying occurrence policy as an aggregated Self-Insured Retention

### **Misconception 3:**

**It is only relevant for those with care responsibilities for minors and/or vulnerable adults**

SML coverage is relevant for any third party liability. We have seen numerous risks and claims from taxi companies, driving schools, libraries and amusement facilities. It is important coverage to have, as a sexual assault can foreseeably occur between two adults and a resulting negligent supervision claim can be made against the insured.

### **Misconception 4:**

**There is no coverage for wrongful acts committed by third parties**

We frequently encounter an assumption that SML coverage only covers claims arising from acts committed by employees. This is incorrect. Our policy addresses broader exposures. For example, we have seen claims where the alleged inappropriate conduct has been perpetrated by one school pupil against another on school transportation. In such circumstances, schools and/or their transportation provider face allegations that the driver and (if present) bus chaperone failed to prevent or halt such conduct - and our policy has responded.

## Contact us to learn more

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