

## Insurance, indemnity and medico-legal support

### Statutory requirement for doctors to have insurance or indemnity

We know doctors work hard to deliver good quality healthcare. But sometimes, things go wrong. If a patient has suffered harm as a result of a doctor's negligence, it's important that doctors have adequate insurance or indemnity to compensate the patient.

[Good medical practice – paragraph 63](#) already requires doctors to have insurance or indemnity in place where necessary.

Parliament passed new healthcare legislation in 2013, which meant we had to change our regulations. The [new regulations](#), which came into effect on 1 August 2015, give us powers to check whether doctors have appropriate insurance or indemnity in place.

We're now able to:

- check that any doctor practising in the UK has the appropriate insurance or indemnity in place, when we have concerns that this might not be the case
- remove a doctor's licence to stop them from practising altogether, if we learn that they don't have appropriate insurance or indemnity in place or if they fail to give us the information we ask for
- refuse to grant a licence to a doctor if they can't assure us that they'll have the appropriate insurance or indemnity in place by the time they start practising in the UK.

A doctor needs to have insurance or indemnity in place when they start to practise in the UK. The type and level of insurance or indemnity required depends on where a doctor works, whether they are employed or self-employed and the type of work they do.

### I'm a doctor, what does this mean for me?

We've set out some examples below which cover most situations. If you're still not sure whether you require insurance or indemnity or the level of indemnity you need, you

should speak to a medical defence organisation or another professional indemnity or insurance provider.

If a patient asks about your insurance or indemnity arrangements, you should be prepared to confirm that you hold adequate and appropriate insurance or indemnity. We don't keep a record of individual doctors' insurance or indemnity arrangements.

### **I only work in a National Health Service (NHS) or Health and Social Care (HSC) trust or health board**

If you only work for the NHS (or for the HSC in Northern Ireland), the organisation you work for will receive indemnity through a clinical negligence scheme.

- In England, indemnity is provided through the Clinical Negligence Scheme for Trusts (CNST), which is administered by the NHS Litigation Authority.
- In Wales, indemnity is provided by Welsh Risk Pool Services.
- In Scotland, indemnity is provided by the Clinical Negligence and Other Risks Indemnity Scheme.
- In Northern Ireland each HSC Trust assumes the role, funded by the Department of Health, Social Security and Public Safety.

You may want to consider whether you need to take out additional personal insurance or indemnity for work that arises out of your NHS or HSC employment, but which is not covered by NHS or HSC indemnity. Such work includes completing cremation certificates and insurance claim forms, or providing medico-legal reports.

### **I only do non-NHS or non-HSC private work**

Even if this work takes place on NHS or HSC premises, you'll need to arrange adequate and appropriate insurance or indemnity for the type of work you are doing.

Many independent healthcare providers will ask you for confirmation of your insurance or indemnity arrangements as part of their pre-employment checks.

### **I work for the NHS or HSC and also do some private work**

If you do additional private work that isn't indemnified under your NHS or HSC contract (even if this work takes place on NHS or HSC premises), you'll need to arrange adequate and appropriate insurance or indemnity for all private work you do.

Many independent healthcare providers will ask you for confirmation of your insurance or indemnity arrangements as part of their pre-employment checks.

## **I'm doing private work in the UK on a temporary basis and my insurance was arranged in my home country**

If you're doing private work in the UK but are insured abroad, you must make sure that:

- your insurance or indemnity from outside the UK covers your work in the UK
- your insurance or indemnity is adequate and appropriate, and of sufficient value (at least the same value as a UK policy of insurance or with the same scope as a UK indemnity arrangement) to cover any claims from patients.

## **I'm a GP**

If you're a GP (regardless of whether you are a partner or employed by a practice or healthcare organisation) you'll need to arrange adequate and appropriate insurance or indemnity.

## **I'm a locum**

If you're working as a locum for an NHS or HSC trust or health board, indemnity for the organisation will be provided by a clinical negligence scheme.

- In England, indemnity is provided through the CNST, which is administered by the NHS Litigation Authority.
- In Wales, indemnity is provided by Welsh Risk Pool Services.
- In Scotland, indemnity is provided by the Clinical Negligence and Other Risks Indemnity Scheme.
- In Northern Ireland each HSC Trust assumes the role, funded by the Department of Health, Social Security and Public Safety.

You may want to consider whether you need to take out additional personal insurance or indemnity for NHS or HSC work you do that is not covered by NHS or HSC indemnity. This includes completing cremation certificates and insurance claim forms, or providing medico-legal reports.

If you're working as locum GP, or as a locum for a private healthcare provider, you'll need to arrange adequate and appropriate insurance or indemnity for any work you do for that organisation.

## **I only do medico-legal work**

If you only do medico-legal work, such as providing advice, writing medical reports, or giving evidence in connection with a legal action, tribunal or hearing, and this work

requires you to hold a licence to practise, you must take out adequate and appropriate insurance or indemnity for this work.

### **What do you mean by adequate and appropriate?**

The definition of adequate and appropriate is a complex area and is very much dependent on your individual circumstances.

You should get insurance or indemnity that covers the full scope of your practice.

Medical defence organisations and other organisations in the commercial insurance market are best placed to advise you on what level of insurance or indemnity is adequate and appropriate for your practice. To get the best possible advice, you must give them accurate and up to date information about the scope and nature of your practice.

### **When should I review my insurance or indemnity arrangements?**

You should do this at regular intervals to make sure that it continues to provide sufficient indemnity for all the medical work that you do. You should also review your insurance or indemnity arrangement each time you change your role or take on a new type of work.

The terms of your insurance or the scope of your indemnity protection may require you to notify your provider if certain things happen, such as sanctions on your registration or licence to practise or when you gain entry to the Specialist Register.

### **I've retired or stopped providing healthcare services – do I still need insurance or indemnity?**

If you have an insurance or indemnity policy in place and you retire or stop providing healthcare services, you should consider taking out a run-off professional indemnity insurance policy. This will provide cover up to the limit of the policy if a patient makes a claim against you or your former practice or employer, for work you did before you retired or stopped working. Commercial insurance providers and medical defence organisations are best placed to give you specialist advice about this.

### **What about medical care provided in an emergency situation outside work (Good Samaritan acts)?**

The new regulations only require you to have insurance or indemnity for medical care you provide as part of your employment or self-employment. A Good Samaritan act (assisting someone in an emergency situation) falls outside of this requirement. But you should check with your medical defence organisation, or insurer, to find out whether you have or need insurance or indemnity for any potential liabilities as a result of a Good Samaritan act.

## **What about medical care provided on a voluntary basis (good neighbour acts)?**

Good neighbour acts include helping out, in your professional capacity, at a local sports club or similar planned voluntary work. You're providing professional medical services regardless of whether they are paid or unpaid. It is unlikely that insurance or indemnity will be set up by the organisation for which you are providing this service. You must make your own arrangements to appropriately and adequately indemnify against any claims.

You should contact your medical defence organisation to advise them of your role and to discuss whether you have or need suitable insurance or indemnity. To help them make this judgement, you must give them accurate and up to date information about the scope and nature of the work.

## **What is medico-legal advice and assistance – do I need it?**

NHS and HSC indemnity schemes only provide indemnity to NHS/HSC bodies for clinical negligence claims. They won't give you individual advice and assistance for other medico-legal matters that arise from your clinical practice, such as criminal or disciplinary investigations. And they won't give you individual advice or assistance if we're asked to investigate your fitness to practise medicine.

Many organisations offer this kind of support. You may find it helpful to arrange medico-legal support, in case you're involved in an inquest or inquiry or if a complaint is made about you, especially if it is investigated further.

## **I'm a patient – what does this mean for me?**

The type of insurance or indemnity that doctors have depends on where they work, the kind of doctor they are and the area of medicine that they work in.

The following examples provide a broad guide. If you have a question about a doctor's insurance or indemnity, you should ask your doctor who is under a duty to confirm that they hold adequate and appropriate insurance or indemnity. We do not keep a record of the insurance or indemnity arrangements of individual doctors.

### **Doctors employed by NHS or HSC hospitals**

The doctors you see in NHS or HSC hospitals are directly employed by that hospital, so the NHS or HSC will take responsibility for compensating any patient who suffers harm resulting from negligence. This means that these doctors don't need to have additional insurance or indemnity for the work they carry out as an employee.

### **GPs**

If you are seeing a GP, they should have insurance or indemnity either because the NHS or HSC employs them directly, or because their contract requires it.

## Seeing doctors privately

If you are seeing a doctor privately for non-NHS or non-HSC healthcare, they should have adequate and appropriate insurance or indemnity. If necessary, you can ask the doctor to confirm that they hold adequate and appropriate insurance or indemnity.

## I'm an employer, what do I need to know about the new insurance or indemnity requirements?

As an employer, you need to be aware of the requirement on doctors to have appropriate insurance or indemnity and the powers that we now have to request information about this.

We've set out some examples below, which should cover most situations. However, if you are unclear about whether a particular doctor should have insurance or indemnity, you should first discuss this with the doctor. We do not keep a record of the insurance or indemnity arrangements of individual doctors.

### If you're an NHS or HSC employer

Indemnity for doctors employed by your organisation will be provided by a clinical negligence scheme.

- In England, indemnity is provided through the CNST, which is administered by the NHS Litigation Authority.
- In Wales, indemnity is provided by Welsh Risk Pool Services.
- In Scotland, indemnity is provided by the Clinical Negligence and Other Risks Indemnity Scheme.
- In Northern Ireland each HSC Trust assumes the role, funded by the Department of Health, Social Security and Public Safety.

### If you're a private healthcare provider

You should confirm with the doctors you employ or contract, whether they will be covered by the organisation's insurance policy or whether they should arrange their own personal insurance or indemnity.

### If you're a locum agency

If you place a doctor in a non-NHS or non-HSC post, you should assure yourself that that they have adequate and appropriate insurance or indemnity in place. It may be helpful for you to confirm this information to the organisation that the doctor will be working for.

## **If you're a Responsible Officer or a Suitable Person**

As you will be making a recommendation about a doctor's whole scope of practice, you should assure yourself that the doctors who have a connection or link with you (for revalidation purposes) have adequate and appropriate insurance or indemnity in place for any medical work they do in the UK.