



## What state indemnity means for you

The Clinical Negligence Scheme General Practice (CNSGP) came into effect on 1 April 2019, meaning NHS Resolution will now settle most negligence claims against GPs undertaking NHS activities. GPs are still advised to have some form of medical indemnity and there has been some confusion about exactly what GPs need medical defence organisation (MDO) cover for, how premiums are being calculated and what happens with historic claims.

We have been keeping track of our constituent GPs' concerns and put three questions to each of the main MDOs.

The questions are:

What different components make up the indemnity product you are now offering and what activities are classed as high risk?

How does the new CNSGP cover change the way you calculate premiums and what's your view on transferring your members existing liabilities to the CNSGP?

If a member receives a quote far in excess of what they were expecting, what steps do you suggest they take?

Note: please do not assume you are covered for a certain activity based on the response of your MDO to these questions, you should always check directly with them. Contact details and links are:

MDDUS can be contacted on 0333 043 0000 and details of their offer to GPs in England are here.

MPS can be contacted on 0800 952 0441 and have produced information on what the change to CNSGP means here.

MDU can be contacted on 0800 716 376 and have produced information on what the change to CNSGP means here.

What different components make up the indemnity product you are now offering and what activities are classed as high risk?

MDDUS: As GPs will still need MDDUS to maintain their comprehensive protection that CNSGP alone won't deliver MDDUS has launched a new GP product - General Practice Protection (GPP) - that provides a range of essential benefits not included in CNSGP including GMC hearings and disciplinary investigations, assistance with coroner's inquests, disciplinary matters and patient complaints.

Another important benefit of GPP is that MDDUS provides indemnity for up to £10,000 annual income received for most non-NHS services, including a GP partner's share of vicarious liability for a range of employed practice staff. GPs can also personalise GPP to reflect a higher income and/or additional private services to ensure complete protection, including higher risk areas of work such as cosmetic medicine and private GP consultations.

Over the past 12 months MDDUS' expert medical advisers handled more than 6,500 calls and opened nearly 4,000 new cases from GP members concerning issues that fall outside the Government's CNSGP scheme. Almost two-thirds of cases handled by MDDUS in the past year would not have been covered by CNSGP, highlighting the range of areas where GPs need our expert help and support.

Medical Protection: The state-backed scheme will not protect GPs in all circumstances. We recommend that GPs maintain a membership with an MDO which offers medicolegal advice and assistance for GMC proceedings, complaints, coroners' inquests, disciplinary matters, criminal investigations and all other issues arising out of their professional practice. Medical Protection's 'Professional Protection' will replace the membership of our current GP members, where it offers the right to request protection in these circumstances which are not covered by the state-backed scheme.

With Professional Protection, if you carry out any higher risk activities as part of your primary care contract (such as fitting contraceptive implants, cosmetic/aesthetic medicine, or out of hours sessions), our members need to provide us with details of this work before 30 April 2019.

Additionally, the state-backed scheme will also not include protection against clinical negligence claims from any private or fee-paying work. If a GP carries out fee paying or private work, they would need to add protection for any claims that may arise from this activity – Medical Protection members can look into adding 'Claims Protection' to their subscription.

MDU: MDU membership for state-indemnified GPs includes, as standard, 24 hour access to help with a wide range of medico-legal matters arising from professional practice such as complaints, inquests, GMC investigations, performers' list actions and criminal allegations. We also include indemnity for claims arising from services provided to registered patients that are not state indemnified such as travel vaccinations and the provision of

medical reports. We do not class certain NHS indemnified work (such as minor surgery) as high risk – and our subscriptions are the same for partners, employed GPs and locums working both in and out of hours.

For the majority of our NHS GP members, the standard membership subscription will be sufficient to extend to all aspects of their practice. However, where members provide private GP services to non-NHS patients or other non-NHS services such as occupational health services, cosmetic procedures or slimming clinics then, if they have not already done so, they need to let us know as indemnity for such activities can require an additional subscription.

How does the new CNSGP cover change the way you calculate premiums and what's your view on transferring your members existing liabilities to the CNSGP?

Note: the latter part of this question relates to the option of MDOs transferring the responsibility for settling claims for activity prior to 1 April 2019 to NHS Resolution, along with the funds they are holding in anticipation of settling these claims.

MDDUS: As GPs will now be indemnified for their NHS work, that lower risk is reflected in our new product which now costs significantly less. Fees for the core GPP subscription range from £472 to £900 and reflects individual circumstances in delivering their GMS/PMS/APMS contractual requirements and nonNHS services to their registered patients. We are still in discussions with the Department of Health and Social Care about participation in the Existing Liabilities Scheme (ELS), but have reached no decision yet.

As a mutual association MDDUS is committed to getting the best deal for all our members who have supported and been supported by the company. It is our duty to ensure that the financial terms of any deal makes sense for all of our current and future members and that any scheme is cast iron in its legality. We also must guarantee that the operational arrangements put in place preserve the highest standards of expertise and personal support for members' professional reputation and personal support as claims progress.

There will not be any financial impact on members regardless of the outcome of these discussions and MDDUS will continue to provide services to members for incidences occurring prior to 1 April 2019.

Medical Protection: A GP's subscription will depend on a number of factors including the amount of private or fee paying work they undertake and the number of sessions they work. As an illustration, a GP working eight sessions can expect their subscription to be less than £800. This subscription includes advice and support with medicolegal issues from their NHS and private work as well as our 24 hour medicolegal advice line and risk management support.

If a member carries out fee paying or private work they would need to add protection for any claims that may arise from this activity. The cost of this additional claims protection is dependent on their earnings from private or fee paying work.

MPS has worked hard to persuade the Government to provide comprehensive support to GPs and others working in general practice who receive a claim for clinical negligence. Under the ELS arrangements, the Government will assume responsibility for all existing claims against Medical Protection members working in general practice in England, as well as claims that are brought in the future where the adverse incident date was before 1 April 2019 and related to treatment under a NHS contract.

Members will be able to turn to the Government backed ELS for help no matter when in the future they become aware of a claim against them, or how much that claim eventually settles for. This mirrors the approach that was taken for hospital doctors when the Government introduced the NHS indemnity scheme in 1990.

To ensure a smooth transition to the new arrangements, MPS will continue to manage existing claims for the next two years. After two years, claims will be managed by NHS Resolution. We will also manage most new claims that arise from adverse incidents prior to 1 April 2019 that are notified as claims in the next two years.

NHS Resolution has extensive experience of managing clinical negligence claims on behalf of NHS Trusts and we will use the next two years to share our specific expertise in the management of GP claims, so members continue to benefit from high standards of claims management beyond this period.

MDU: NHS GP members working in England can expect to benefit from significantly reduced MDU subscriptions with the introduction of state-indemnity for NHS clinical negligence claims, even compared to the MDU's previous Transitional Benefits rates which were themselves around 50% below our previous occurrence rates. Our subscriptions vary depending on the number of sessions GPs are undertaking but the majority of our NHS GP members in England will see their subscription drop at their renewal to under £1000.

We will write to members ahead of their renewal to explain the impact on their membership.

The CNSGP will only address GPs' clinical negligence claims arising from incidents on or after 1 April 2019. A scheme 'covering claims for historic NHS clinical negligence incidents occurring any time before 1 April 2019' was also announced but, at the time of writing, excludes the vast majority of GPs working in England, including MDU members. Our members continue to report claims for retrospectively inflated sums for incidents that happened before 1 April 2019. The MDU remains committed to holding the Government to its promise that there will be an acceptable solution for our GP members' existing liabilities.

If a member receives a quote far in excess of what they were expecting, what steps do you suggest they take?

MDDUS: There is a transition period in 2019 recognising the need for indemnity claims benefits prior to 1 April 2019 and the reduced GPP benefits

required post 1 April 2019. In their current membership year, members will be paying a fee to reflect the differing requirements of benefit required. At their first renewal on or after 1 April 2019 members will be provided with the GPP product at a membership fee range of £472-£900. Supplements are payable for activities beyond their GMS/PMS/APMS contract work in delivering primary medical services and non-NHS services to their registered patients to a limit of £10k per GP.

MDDUS provides individual, group and corporate membership and welcomes the opportunity with our professional services and competitive fees to provide quotes from non-MDDUS members.

Medical Protection: As a mutual, not-for-profit organisation, we have an obligation to price fairly and responsibly. Our prices are tailored according to the amount and type of work undertaken by the practitioner. If Medical Protection members have any concerns about the price of their subscription, they should contact our member services at 0800 952 0441 who will be able to check that the right level of protection is being quoted for.

MDU: We do not anticipate that this will be the case as our GP subscriptions are significantly reduced and for the majority of GPs working in England the standard MDU membership subscriptions will extend to all aspects of their practice. However, our membership team would be happy to discuss any queries members may have.