

Education and Training Committee, 12 September 2013

Outcomes of consultation on guidance on professional indemnity

Executive summary and recommendations

Introduction

A consultation was held between 10 June 2013 to 2 August 2013 on guidance for registrants as part of the introduction of a statutory requirement to have in place a professional indemnity arrangement as a condition of registration. This requirement will not apply to social workers in England.

The attached document summarises the responses we received to the consultation and describes our decisions as a result. A revised draft of the guidance for registrants is also appended.

A number of changes have been made to the guidance document, described in further detail in the consultation responses document. They include amendments to ensure consistency with the relevant legislation; to better signpost content in the guidance for different groups of registrants and applicants; and to improve readability overall. Legal advice has been sought in the development and revision of the guidance.

The Committee is being asked to make a recommendation to the Council for consideration at its meeting on 17 September 2013. The Council would be provided with a verbal update about the Committee's decision, including any revisions to the draft guidance agreed at this meeting.

The draft guidance will also undergo copy editing in line with the normal publication process prior to publication.

Decision

The Committee is invited to discuss the attached papers and to agree and recommend to the Council the following.

- The text of the consultation responses document for publication on the HCPC website (subject to minor editing amendments and any further amendments resulting from the Committee's discussion).
- The text of the draft guidance (subject to minor editing amendments and any further amendments resulting from the Committee's discussion).

Background information

- This requirement is being introduced by the Government via the Health Care and Associated Professions (Indemnity Arrangements) Order 2013 which will amend the Health and Social Work Professions Order 2001. This legislation has yet to receive parliamentary approval.
- Registrants and applicants (apart from social workers in England) will be required to make a self-declaration from 1 April 2014 to confirm that they meet, or will meet, this requirement. We plan to publish the final guidance in early October 2013 which should coincide with the legislative timetable. However, this timescale may change.
- Frequently Asked Questions (FAQs) are in the process of being developed and will be published on the website alongside the final guidance.

Resource implications

- Revising the consultation analysis document as required and posting it on the HCPC website.
- Arranging for the publication of the guidance.
- Communicating the outcomes of the consultation and the guidance document to key stakeholders.

The resource implications are accounted for in Policy and Standards Department and Communications Department planning for 2013-2014.

Financial implications

- Publishing revised guidance.

The financial implications are accounted for in budgeting to support the major project to implement the new requirement.

Appendices

- Consultation responses document
- Professional Indemnity Guidance – final

Date of paper

2 September 2013

Outcomes of the consultation on guidance for registrants about the statutory requirement to have appropriate professional indemnity cover as a condition of registration

Summary of responses to the consultation and our decisions as a result

Please note that, subject to parliamentary approval of the relevant legislation, this statutory requirement will not apply to social workers in England.

September 2013

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1. Introduction

About the consultation

- 1.1 We consulted between 10 June 2013 and 2 August 2013 on draft proposed guidance for registrants about the statutory requirement to have appropriate professional indemnity cover as a condition of their registration with us.¹
- 1.2 We emailed a link to the consultation document to a range of different individuals and organisations, including professional bodies and employers.
- 1.3 We received responses via an online survey tool, by email and by letter. We would like to thank all those who took the time to respond to the consultation.
- 1.4 **Please note that subject to parliamentary approval of the relevant legislation, the statutory requirement to have in place a professional indemnity arrangement which provides appropriate cover will not apply to social workers in England registered with us.** Social workers in Scotland, Wales and Northern Ireland will also be unaffected by the introduction of this statutory requirement.
- 1.5 One of the outcomes of this consultation is amending the terminology used in the draft guidance for clarity and to ensure this is in line with the relevant legislation. This document uses that terminology wherever appropriate.

About us

- 1.6 We are a regulator and were set up to protect the public. To do this, we keep a register of professionals who meet our standards for their professional skills and behaviour. Individuals on our Register are called 'registrants'.
- 1.7 We currently regulate 16 professions.
 - Arts therapists
 - Biomedical scientists
 - Chiropodists / podiatrists
 - Clinical scientists
 - Dietitians

¹ Health and Care Professions Council (2013). Consultation on guidance for registrants about the statutory requirement to have appropriate professional indemnity cover as a condition of registration. <http://www.hcpc-uk.org/aboutus/consultations/index.asp?id=158>

- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

About this document

1.8 This document summarises the responses we received to the consultation and our decisions as result. The document is divided into the following sections:

- **Section 2** explains how we handled and analysed the responses we received, providing some overall statistics from the responses.
- **Section 3** provides a high level summary of the responses we received to the consultation.
- **Section 4** outlines the comments we received in relation to each of the consultation questions.
- **Section 5** outlines our responses to the comments we received and the changes we are making as a result.
- **Section 6** lists the organisations which responded to the consultation.

1.9 In this document, 'you' or 'your' are references to respondents to the consultation; 'we' and 'our' are references to the Health and Care Professions Council.

2. Analysing your responses

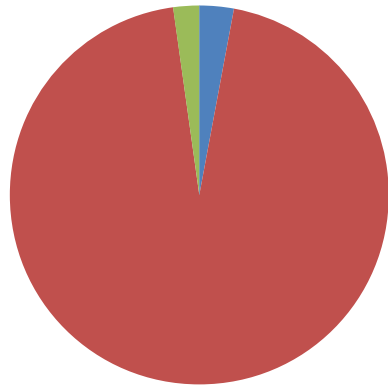
- 2.1 Now that the consultation has ended, we have analysed all the responses we received. While we cannot include all of the responses in this document, a summary of responses we received can be found in section three.

Method of recording and analysis

- 2.2 The majority of respondents used our online survey tool to respond to the consultation. They self-selected whether their response was an individual or an organisation response, and, where answered, selected their response to each question (e.g. yes; no; partly; don't know). Where we received responses by email or by letter, we recorded each response in a similar manner.
- 2.3 When deciding what information to include in this document, we assessed the strength and frequency of the comments made across the consultation responses and identified common themes.

Statistics

- 2.4 We received 171 responses to the consultation document. 136 (80 per cent) responses were made by individuals and 35 (20 per cent) responses were made by organisations.
- 2.5 The breakdown of respondents and of responses to each question is shown in the graphs and tables that follow



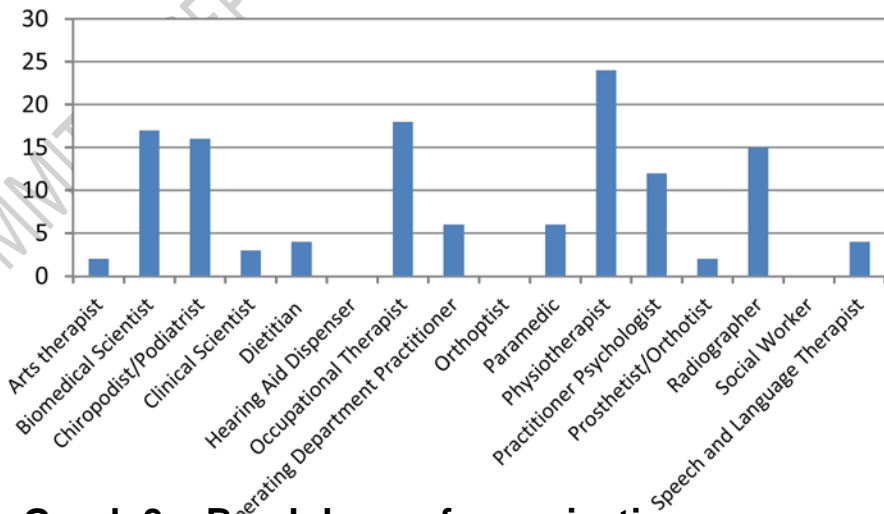
- Educator
- HCPC registered professional
- Other registered professional
- Service user or carer
- Other

Graph 2 – Breakdown of HCPC registered respondents

Respondents identifying themselves as HCPC registered professionals were asked to select their profession.

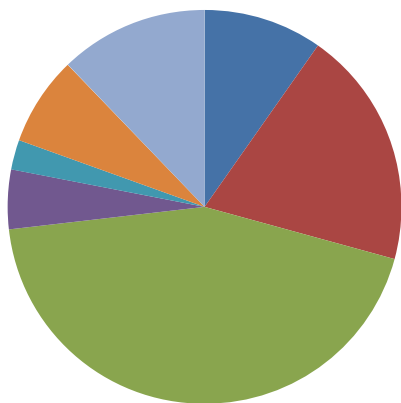
Graph 1 – Breakdown of individual responses

Respondents were asked to select the category that best described them. No respondents primarily identified themselves as ‘service users or carers’ or ‘other’.



Graph 3 – Breakdown of organisation responses

Individuals responding on behalf of an organisation were asked to select the category that best described their organisation. The majority of those who selected ‘other’ described their organisations as trade unions.



- Education provider
- Employer
- Professional body
- Public body
- Regulator
- Service user organisation
- Other

Table 1 – Breakdown of responses to each question

Question	Yes	No	Partly	Don't know	No answer
Q1. Is the guidance clear and easy to understand?	125 (73%)	7 (4%)	28 (16%)	4 (2%)	7 (4%)
Q2. Is the guidance applicable to different groups of health and care professionals affected by the requirement to hold indemnity cover?	107 (63%)	6 (4%)	9 (5%)	33 (19%)	16 (9%)
Q3. Could any parts of the guidance be reworded or removed?	22 (13%)	97 (57%)	7 (4%)	30 (18%)	15 (9%)

Table 2 – Breakdown of responses by respondent type

	Individuals					Organisations				
	Yes	No	Partly	Don't know	No ans	Yes	No	Partly	Don't know	No ans
Question 1	100 (73%)	6 (4%)	21 (15%)	4 (3%)	5 (4%)	25 (71%)	1 (3%)	7 (20%)	0 (0%)	2 (6%)
Question 2	88 (65%)	4 (3%)	3 (2%)	32 (24%)	9 (6%)	19 (54%)	2 (6%)	6 (17%)	1 (3%)	7 (20%)
Question 3	13 (10%)	81 (60%)	5 (4%)	28 (21%)	9 (7%)	9 (26%)	16 (17%)	2 (6%)	2 (6%)	6 (17%)

- Percentages in the tables above have been rounded to the nearest whole number and therefore may not add to 100 per cent.
- Questions 1 and 2 included sub-questions that invited long answer responses and question 4 invited any further comments rather than 'yes' or 'no' answers, as such they have not been included in the above table and a summary of responses to these questions can be found in section 3 of this document.

3. Summary of responses

Improving the guidance

- 3.1 A large majority of respondents welcomed the guidance aimed at registrants about the statutory requirement to have a professional indemnity arrangement in place as a condition of registration.
- 3.2 A number of respondents suggested that the guidance could be improved by redressing the balance of responsibility between employers and registrants to ensure appropriate cover.
- 3.3 Several responses suggested that the guidance would benefit from defining professional indemnity in relation to other indemnity insurance arrangements.

Applicability to different groups

- 3.4 The majority of respondents considered that the guidance was applicable to different groups of health and care professionals affected by the requirement.
- 3.5 However, some respondents suggested further clarification should be provided about how the requirement applies to registrants not currently in practice and applicants for registration.
- 3.6 We received some questions about who the new requirement applies to including why social workers registered with the HCPC were not included in the requirement, but educational psychologists were.

Amendments to the guidance

- 3.7 Most respondents considered that the guidance did not require any amendment.
- 3.8 A few respondents suggested that the terminology relating to professional indemnity should be used more consistently and others suggested that the terminology should match that used in relevant legislation.
- 3.9 A number of other amendments were suggested by respondents in order to improve the clarity and readability of the guidance.

Additional comments

- 3.10 Some respondents provided additional comments about the guidance providing detailed suggestions about the wording and content of the guidance.

4. Responses to consultation questions

4.1 This section contains comments made in response to the questions within the consultation document.

1) Is the guidance clear and easy to understand? How could we improve it?

- 4.2 The majority of respondents welcomed the proposed guidance about professional indemnity arrangements and considered that it was clear. A number of respondents commented that the document was appropriately written and easy to understand.
- 4.3 A small percentage of respondents considered that the document could be improved. There was no significant difference between the responses of individuals and those of organisations.
- 4.4 The most frequently suggested improvement was to include a definition of professional indemnity in the guidance. Several respondents further commented that a distinction between this and different types of indemnity arrangements would also be beneficial, suggestions included public liability, vicarious liability, professional liability, and treatment liability insurance.
- 4.5 Several respondents commented on parts of the guidance which relate to employers as they considered that the balance of responsibility between registrants and employers could be clarified.
- Several respondents suggested that the guidance could provide further reassurance to registrants working in the NHS by explaining that NHS employees will already have appropriate cover through their employers' professional indemnity arrangements.
 - A few respondents were concerned that the guidance states that it is a registrant's responsibility to check the indemnity arrangements of their employers, when registrants may not have access to this information as they are not party to the terms of the insurance arrangement.
 - A few further respondents were concerned that registrants could be held accountable if their employer had not fully understood their professional indemnity needs which resulted in registrants lacking appropriate cover for their employed work.
- 4.6 A number of other improvements were also suggested by other respondents.
- Several respondents said that it would be helpful if the guidance contained more information about where registrants might obtain advice and support about the type of arrangement they need. They suggested that this might include references to professional bodies and/or links to organisations that provide specialist cover.

- Some respondents suggested that the guidance should provide guidelines about the level of indemnity members of each profession may need. Other respondents suggested that hypothetical examples to clarify the types of issues registrants should be thinking about when checking their indemnity arrangements would be appropriate.
- A few respondents considered that, as currently drafted, the guidance excluded the possibility of registrants obtaining cover from other organisations including unions and medical defence organisations. They argued that these should also be included in the guidance.

2) Is the guidance applicable to different groups of health and care professionals affected by the requirement to hold indemnity cover? If not, which groups have we missed?

- 4.7 Many respondents to the consultation agreed that the guidance was applicable to the different groups of health and care professionals affected by the indemnity requirement. There was a small disparity in the responses as 63 per cent of individuals considered this was the case while 54 per cent of organisations answered the same.
- 4.8 Several respondents said that the guidance should include a section for newly qualified professionals who are applying for registration for the first time. These respondents were concerned that it would be difficult to make professional indemnity arrangements without first being registered with the HCPC.
- 4.9 A number of respondents said that that the guidance should more explicitly explain what the requirement meant for registrants who were not in practice. Some respondents suggested this could specifically address:
- registrants in between jobs;
 - retired registrants;
 - registrants working in management; and
 - registrants working in academia.
- 4.10 A couple of these respondents also had questions as to how the professional indemnity requirement would apply to:
- registrants working overseas;
 - temporary registrants; and
 - visiting European health professionals.

- 4.11 A few profession-specific comments were made about the statutory professional indemnity requirement and the guidance we aim to produce on the issue.
- Social workers. Some respondents considered that the guidance could include further information to explain why social workers in England are exempt from the requirement to have a professional indemnity arrangement.
 - Educational psychologists. A few respondents considered that educational psychologists should not be regarded as health professionals, but as care professionals, and as such be exempt from this requirement.
 - Clinical scientists. A small number of respondents argued that it can be difficult to make professional indemnity arrangements for specialised scopes of practice. They considered that often insurers do not understand the professions well enough to be able to provide accurate quotes, and suggested that the guidance could provide links to companies which provide specialist cover.
- 4.12 One respondent considered that the duty to disclose information to an indemnity provider was less applicable to arrangements made by a registrant by virtue of their membership of a professional body. They argued that as individual registrants would not be party to the terms of the agreement, they would not be expected to disclose information about their practice.
- 4.13 A few respondents noted that a number of groups that the HCPC does not regulate were not included in the guidance, such as assistants / support workers, pharmacists, nurses and students.

3) Could any parts of the guidance be reworded or removed?

- 4.14 Over half of all respondents considered that it was not necessary for the guidance to be amended. We received a number of responses to the consultation that said that the guidance was clear and appropriately structured and written.
- 4.15 There was a slight discrepancy in the responses received from individuals and organisations, only 10 per cent of individuals considered that the guidance required amendment while 26 per cent of organisations responded the same.
- 4.16 Several respondents considered that the guidance should be reworded to ensure consistency in terminology relating to types of indemnity arrangements throughout the guidance to avoid confusion.

- 4.17 A few respondents further added that the guidance should replace references to 'indemnity insurance' to 'indemnity arrangements' to reflect legislation on this issue.
- 4.18 One respondent suggested that the guidance included references to professionals in the UK, to more explicitly cover professionals working in Scotland, Wales and Northern Ireland.
- 4.19 A few respondents suggested that when redrafting the guidance the HCPC may wish to consider reducing the amount of legal language, numbering subsections, removing duplication and revising the structure and grammar of some parts of the guidance.

4) Do you have any other comments on the draft guidance?

- 4.20 Several respondents indicated that they had other comments to make in relation to the draft guidance.
- A few respondents considered that the guidance would be too long for some registrants and suggested that it should either be reduced in length, or an accessible summary version should also be produced.
 - One respondent anticipated that the introduction of this statutory requirement would be difficult for the majority of registrants to understand, and as such the guidance will need to be widely disseminated and communicated.
 - A further respondent said that it was important that the guidance on this issue aligned with that of other regulators.

5. Our comments and decisions

- 5.1 The following explains our decisions in some key areas. We have considered carefully all the comments we received to the consultation and have used them to revised the draft guidance.

Scope of the statutory requirement

- 5.2 The statutory requirement to have in place a professional indemnity arrangement which provides appropriate cover as a condition of registration is being introduced by the UK Government in order to implement a European Directive on cross-border healthcare.
- 5.3 We received some responses who questioned why this new statutory requirement did not apply to social workers in England and why it did apply to educational psychologists.
- 5.4 The scope of the European Directive, which the UK Government is implementing in via secondary legislation, does not extend to professions which are considered in law to be social care professions, including social workers. However, it does apply to all the other professions regulated by the HCPC. The UK Government is unable to exceed the scope of the European Directive to extend the requirement to social workers in England, or to remove other professions from scope. The HCPC has no control over the scope of this legislation. We have amended the draft guidance to make it clearer why social workers registered with us will not have to meet this requirement (although they may meet it in any event).
- 5.5 With respect to educational psychologists, we anticipate that many will already meet this requirement because they will work solely for local authorities or for other employers and can rely on their employer's indemnity arrangements. Others who undertake self-employed work may already have made their own indemnity arrangements.

Applicants and registrants who are not in practice

- 5.6 The draft guidance included information about how applicants and registrants who were not in practice would be affected. However, we received some responses which expressed concern about how these groups would be affected which suggested that we needed to set out in a clearer way how the requirement affected these groups.
- 5.7 Applicants for registration will not need to have a professional indemnity arrangement in place when they apply for registration. We recognise that if we did insist on this this may act as a barrier to registration as individuals may not

be able to make arrangements until they are registered. We will instead require applicants for registration to confirm that they understand the requirement to have in place a professional indemnity arrangement which provides appropriate cover and that they will have such an arrangement in place when they start to practise.

- 5.8 Registrants who are not in practice at the point of their renewal will also need to declare that they understand the requirement and commit to having an arrangement in place when they begin to practise again.
- 5.9 We have amended the draft guidance to strengthen the information for these groups including by creating separate sub-sections to better signpost readers.

Other amendments

- 5.10 In light of the feedback we received, we have amended the draft guidance in a number of other areas, including the following.
- We have amended the terminology used (particularly phrases such as ‘cover’, ‘insurance’ and ‘indemnity’) to more accurately reflect that used in the legislation – the guidance will refer to the need to have in place a professional indemnity arrangement which provides appropriate cover. This helps ensure consistency across the document and makes the requirement clearer overall. This includes renaming the guidance to ‘Professional indemnity and your registration’.
 - We have added unions and defence organisations as potential professional indemnity providers.
 - We have amended the guidance in a number of places to ensure that we are clearer about the balance of responsibility between employers and registrants who are employed. We have made it clear that an employer’s indemnity arrangements will only provide cover for activities performed by an employee during the course of their employment and which the employer has authorised.
 - We have separated out voluntary work from Good Samaritan acts and restructured the content in both areas for clarity.
 - We have created a separate section on declaring information to indemnity providers to make it clearer our expectation that registrants read and understand the terms of any separate cover they take out, and, where required, declare any relevant information to their indemnity provider.

- We have amended the ordering and sectioning of the document in a number of places to make it easier to navigate and in particular to ensure that information for different groups is clear and easy to find.
- We have made a number of other amendments to the draft guidance in order to improve its clarity including using plain English as much as possible and removing unnecessary duplication.

Frequently asked questions

- 5.11 We want to make sure that the guidance is as clear as possible, setting-out information and principles which apply to all registrants who are affected by the new requirement. We want to avoid the guidance itself becoming unnecessarily complicated or lengthy.
- 5.12 Alongside the final guidance, we will publish some Frequently Asked Questions (FAQs) on our website to provide further information which can be more readily kept up to date as we start to implement the requirement.
- 5.13 The consultation has been helpful in identifying some areas that we might address in these FAQs including the following.
- Other types of insurance and how they differ from professional indemnity. The statutory requirement only relates to arrangements which provide cover for claims about professional practice. Other types of insurance, such as public liability insurance, might be held by some registrants but are not required as a condition of registration.
 - Students. Students studying on HCPC approved pre-registration education and training programmes are not required to have made their own professional indemnity arrangements. This requirement applies only to registrants.
 - Visiting European health professionals. We register visiting European health professionals who are working in the UK on a temporary and occasional basis under arrangements put in place by European legislation. The HCPC is unable to apply the professional indemnity requirement to his group. However, these professionals are likely be required by their regulatory body in their own European member state to have such arrangements in place.

6. List of respondents

We have listed below the organisations who responded to our consultation.

Allied Health Professions Federation
Association for Clinical Biochemistry and Laboratory Medicine
Association for Perioperative Practice
Federation of Clinical Scientists
Bankside Law Ltd
British and Irish Orthoptic Society
British Association of Prosthetists and Orthotists
British Association of Sexual Health & HIV (BASHH)
British Society of Hearing Aid Audiologists
Cardiff and Vale UHB
Chartered Society of Physiotherapy
College of Paramedics
Council of Deans of Health
Institute of Biomedical Science
Institute of Medical Illustrators
Medical Protection Society
Medicines and Healthcare Products Regulatory Agency
National Association of Professional Ambulance Services (NAPAS)
NHS Employers
Norfolk Community Health and Care NHS Trust
Northern Ireland Ambulance Service
Palm insurance
Royal College of Surgeons of Edinburgh
Royal Free London NHS Foundation Trust
Shrewsbury and Telford Hospital NHS Trust
Society and College of Radiographers
South Eastern Health and Social Care Trust
Southend University Hospital NHS Foundation Trust
The Academy for Healthcare Science
The Medical Protection Society
The SMAE Institute
The Society of Sports Therapists

UNISON
Unite the Union

EDUCATION AND TRAINING COMMITTEE SEPTEMBER 2013

Information for registrants

Professional indemnity and your registration

1. Introduction

About this document

We have written this document about the requirement for registrants to have a professional indemnity arrangement in place as a condition of their registration with us.

It explains what this requirement means for registrants. This document will also be helpful for individuals applying for registration with us.

The requirement to have a professional indemnity arrangement in place as a condition of registration does not apply to social workers in England.

This guidance is being published in anticipation of parliamentary approval of the Health Care and Association Professions (Indemnity Arrangements) Order 2013 and amendments to the Health and Care Professions Council (Registration and Fees Rules) Order of Council 2003.

[DN: This will be removed after 1 April 2014]

Your responsibility as a registrant

As a registrant, you are personally responsible for maintaining your registration and continuing to meet our standards. You are now also responsible for ensuring that you have a professional indemnity arrangement in place when you are registered with us.

This document will help you in understanding our requirements.

How this document is structured

Throughout this document:

- 'we' and 'us' refers to the Health and Care Professions Council (HCPC);
- 'registrant' refers to a professional on our Register; and
- 'you' or 'your' refers to a registrant or, where stated, an applicant.

About us

We are a regulator and were set up to protect the public. To do this, we keep a register of professionals who meet our standards for their professional skills and behaviour. Individuals on our register are called 'registrants'.

We currently regulate 16 professions:

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

2. Summary

The following is a summary of what the requirement to have in place a professional indemnity arrangement means for you. We have explained more about this in section three.

Registrants

If you are a registrant (other than a social worker in England), you are now required to make sure that you have in place a professional indemnity arrangement as a condition of your registration with us. This means the following.

- You must make sure you have a professional indemnity arrangement in place when you practise. This could be an arrangement provided:
 - through your employer if you are employed;
 - as part of membership of a professional body, trade union or defence organisation;
 - directly from an insurer; or
 - a combination of the above.
- You must make sure that the professional indemnity arrangement you have in place provides appropriate cover. This means that the cover needs to be appropriate to the risks involved in your practice so that it is sufficient in the event that a successful claim is made against you.
- If you are employed, your employer's indemnity arrangements are very likely to provide appropriate cover for the activities that you perform as part of your job.
- If you are self-employed, you are likely to need to make sure that you have put in place your own arrangements for professional indemnity.
- If you undertake both employed and self-employed work you need to make sure that you have professional indemnity arrangements in place which provide appropriate cover for all parts of your practice.

- If you are registered with us but are not currently practising, you do not need to have a professional indemnity arrangement in place. However, you will need to ensure that such an arrangement is in place when you begin to practise.

Social workers in England

- If you are registered with us as a social worker, this condition of registration does not apply to you.

Applicants

- If you are not yet registered with us, we will ask you to complete a self-declaration when you apply for registration to confirm that you understand the requirement to have a professional indemnity arrangement in place and that you will have such an arrangement in place when you begin to practise.

EDUCATION AND TRAINING COMMITTEE SEPTEMBER 2013

3. About professional indemnity

This section provides more information about the requirement to have a professional indemnity arrangement in place as a condition of your registration with us.

A condition of registration

In 2013, legislation was introduced which requires all registrants (other than social workers in England) to have a professional indemnity arrangement in place as a condition of their registration with us. The arrangement must provide appropriate cover.

This requirement has been introduced so that if a service user is harmed in some way because of the negligence of a registrant, the service user will be able to recover any compensation they may be entitled to.

The requirement to have in place a professional indemnity arrangement applies to all registrants (other than social workers in England) and to all aspects of professional practice.

From April 2014 we will start asking registrants and applicants for registration to make a declaration that they have a professional indemnity arrangement in place which provides appropriate cover, or that they will have such an arrangement in place when they begin practising.

Meeting the requirement

Many registrants will work in an employed environment, for example, for the National Health Service (NHS), a local authority or in the independent sector, where their employer will indemnify them and/or they will have already made their own professional indemnity arrangements.

This means that many registrants will already meet this requirement and will not need to take any further action.

However, other registrants may need to take steps to make sure that they have a professional indemnity arrangement in place which provides appropriate cover.

This requirement to have a professional indemnity arrangement in place can be met through one or more of the following.

- A professional indemnity arrangement through your employer.
- A professional indemnity arrangement as part of being a member of a professional body, trade union or defence organisation.
- A professional indemnity arrangement obtained directly through an insurer.

‘Appropriate cover’

You must make sure that the professional indemnity arrangement you have in place provides appropriate cover. This means that you must have an arrangement in place which provides cover appropriate to your practice, taking into account the nature and extent of its risks.

This level of cover needs to be sufficient to meet any liability that may be incurred if a successful claim is made against you. What is appropriate cover for you may depend upon a combination of factors, including, for example, the following.

- The practice area or areas you work in.
- The service users you work with.
- The risks involved with your practice.

What might be appropriate cover for one registrant may be inappropriate for another registrant. You need to make sure that you consider the risks which may arise from your own practice and ensure that you have in place a professional indemnity arrangement which provides cover which is appropriate to those risks.

We are unable to advise you about the level of cover that you will need. We consider that you are in the best position, seeking advice as appropriate from your professional body, trade union, defence organisation and/or insurer, to make reasonable, informed decisions about the level of cover which is appropriate to you and your practice. You need to be able to justify your decisions if asked to.

If you are employed

If you only work for an employer, then your employer is very likely to have professional indemnity arrangements in place which will provide appropriate cover for all the relevant risks related to those activities that you perform as part of your job.

Arrangements may, however, vary between different employers, so if you are unsure, you should always check with your employer.

An employer’s arrangement will only provide cover for activities performed by an employee during the course of their employment and which the employer has authorised.

If you are self-employed

If you are self-employed you will need to make sure that you have put in place your own arrangements for professional indemnity. Some professional bodies, trade unions and defence organisations offer professional indemnity cover as part of their membership or for an additional fee. Alternatively you can arrange your own cover directly through an insurer.

If you undertake a combination of employed and self-employed roles

If you are an employee and you also undertake some self-employed work, you will need to ensure that you have arrangements in place for your self-employed work, as this will not be covered by any arrangements put in place by your employer. You should always make sure you have arrangements in place which provide appropriate cover for all parts of your practice.

If you are registered but not practising

We recognise that professionals may sometimes be registered with us but not be practising for short periods of time. For example, they might be on a career break or looking for employment.

If you are registered with us, but not practising, we will not expect you to have a professional indemnity arrangement in place. However, we will expect you to have such an arrangement in place when you begin to practise again.

Voluntary work

The requirement to have a professional indemnity arrangement in place applies to all professional practice, including any voluntary work you undertake. If you practise your profession as a volunteer then you will need to ensure that you have a professional indemnity arrangement in place which provides appropriate cover for this part of your practice. Some voluntary organisations will already have made arrangements which will cover the activities that their volunteers undertake. Any existing professional indemnity arrangements you have in place may also apply to any voluntary work you undertake.

Some registrants will undertake voluntary work which is unrelated to the practise of their profession and which does not require HCPC registration. This type of voluntary work does not amount to professional practice for which a professional indemnity arrangement is mandatory.

'Good Samaritan' acts

We do not regard actions as a 'Good Samaritan' – someone who provides first aid or other emergency assistance to an individual when there is no professional obligation to do so - as professional practice for which a professional indemnity arrangement is required.

If your practice changes

We recognise that your practice may change. For example, this might be because you specialise, start working with a new client group, or move into a role in management, education or research. This might mean that the level of cover you need changes or that you need to make additional arrangements. You should make sure that you continue to have in place professional indemnity arrangements which provide appropriate cover.

If you have made your own professional indemnity arrangements

If you have made your own professional indemnity arrangements, you should make sure that you understand how cover will work. For example, most indemnity insurance will be offered on a 'claims made' basis. This means cover would need to be in place both when the event giving rise to a claim occurred, and when the claim was made, which may be some years later.

This also includes understanding any requirements to disclose relevant information to your indemnity provider. Requirements may vary between different indemnity providers. However, this may mean that you will need to make sure that you fully disclose all material information which would influence a provider's decisions about whether or not to provide or continue to provide you with cover.

Checking that an arrangement is in place

As a registrant, you are already personally responsible for maintaining your registration with us and for continuing to meet our standards.

The members of each profession registered with us renew their registration every two years. When you renew your registration with us, we ask you to make a number of self-declarations. For example, we will ask you to confirm that you continue to meet our standards for continuing professional development.

We will now ask you to make a self-declaration about the professional indemnity arrangements you have in place. We will ask you to confirm that:

- you have a professional indemnity arrangement in place which provides appropriate cover; or
- if you are not practising at that time, that you understand the requirement and will have such an arrangement in place when you begin to practise.

We will not routinely ask you to send us certificates or other evidence of your professional indemnity arrangements. However, we may ask you for evidence if, for example, there are concerns that you may not have a professional indemnity arrangement in place or that it may not provide appropriate cover.

As having a professional indemnity arrangement in place is a condition of your registration, if you are unable to complete the self-declaration you will be unable to renew your registration with us and would be removed from the Register.

If at any point when you are registered with us you cease to have a professional indemnity arrangement in place which provides appropriate cover, you need to inform us immediately by writing to our Registration Department. However, you do not need to tell us about routine changes, such as a change of provider or not having an arrangement in place because you are no longer working.

Applicants for registration

If you are applying to be registered (or re-registered) with us, we recognise that you may not yet have secured employment, or been able to arrange a separate professional indemnity arrangement. You will still be able to register with us, subject to completing a self-declaration.

When you apply for registration we will ask you to confirm that:

- you understand the requirement to have in place a professional indemnity arrangement which provides appropriate cover; and
- you will have such an arrangement in place when you begin to practise.

As having a professional indemnity arrangement in place is a condition of registration, if you are unable to complete the self-declaration you will be unable to register with us.

Professional indemnity and fitness to practise

Our fitness to practise process is the way in which we can consider concerns about registrants.

Most registrants will complete self-declarations honestly and ensure that they have a professional indemnity arrangement in place which provides appropriate cover. However, we will consider taking fitness to practise action if we believe that these requirements have not been met. For example, if a registrant:

- makes a declaration that they have a professional indemnity arrangement in place when they do not;
- registers, or renews their registration with us, but cancels their professional indemnity arrangement and fails to put alternative arrangements in place whilst continuing to practise; or
- knowingly has in place a professional indemnity arrangement which does not provide appropriate cover.

Social workers in England

The legal requirement to have in place a professional indemnity arrangement as a condition of registration does not apply to social workers in England (or social workers registered with their respective regulators in other parts of the UK). This is because this requirement has been introduced by the UK Government to implement European legislation which applies to all the other professions registered by us but does not extend to social workers.

However, many social workers registered with us are likely to meet the requirement anyway. They will be indemnified by their employer for the activities they undertake as part of their employment and/or will have made their own professional indemnity arrangements.

Although it is not a condition of your registration, if you are a social worker registered with us you may still want to make sure that you have a professional indemnity arrangement in place which provides appropriate cover.

EDUCATION AND TRAINING COMMITTEE SEPTEMBER 2019

4. More information

If you have any questions about this document, please contact us. Please be aware, however, that we cannot offer advice on different professional indemnity arrangements or what level of cover is appropriate. You can contact us at the following address.

Registration Department
Health and Care Professions Council
Park House
184 Kennington Park Road
London
SE11 4BU

Tel +44 (0)845 300 4472
Email: registration@hcpc-uk.org

You can view 'frequently asked questions' about this requirement on our website at: www.hcpc-uk.org/registrants/

We recognise the valuable role professional bodies, trade unions and defence organisations play in representing and promoting the interests of their members. This may also include guidance and advice on professional indemnity arrangements for our registrants.

EDUCATION AND TRAINING COMMITTEE SEPTEMBER 2013