

# Coronavirus outbreak indemnity FAQs

**1. What indemnity arrangements are in place in the NHS, and do they cover clinical negligence for NHS services provided in relation to the response to the coronavirus outbreak?**

Arrangements are in place to indemnify healthcare professionals through one of the following state indemnity schemes:

- a) The Clinical Negligence Scheme for Trusts (CNST), if they are engaged by an NHS trust to provide NHS services.
- b) The Clinical Negligence Scheme for General Practice, if they are engaged by a GP practice to provide NHS services (i.e. a GP practice the main business of which is the provision of NHS primary medical services). This includes salaried GPs, locums, students and trainees, nurses, clinical pharmacists, agency workers and other practice staff.

During the outbreak, existing indemnity arrangements will continue to cover clinical negligence liabilities arising from the vast majority of NHS services, including staff working in a place that is not their ordinary place of work. To ensure there are no gaps in indemnity coverage, the Coronavirus Act 2020 provides additional powers to provide clinical negligence indemnity arising from NHS activities related to the Coronavirus outbreak, where there is no existing indemnity arrangement in place.

It provides cover for services directly related to coronavirus and for any backfill arrangements that may be needed, as a consequence of coronavirus, to sustain the delivery of NHS services.

**2. I already have indemnity cover from one of the state-backed schemes. Why do I need further protection under the Coronavirus Act 2020?**

We do not want indemnity to be a barrier or cause a delay to anyone assisting with the coronavirus response. We expect the vast majority of services will continue to be covered by existing indemnity arrangements. The indemnity provided under the Act provides a complementary indemnity on top of existing arrangements to ensure there are no gaps and provide reassurance to all staff who are asked to assist with the response.

**3. Who will be covered by the indemnity section of the Coronavirus Act 2020?**

All staff providing NHS services related to the coronavirus outbreak will be covered by this indemnity for clinical negligence where they are not already covered by an existing indemnity arrangement.

**4. Do volunteers supporting the response to the coronavirus outbreak have indemnity cover?**

Where volunteers are asked by NHS trusts to help deliver NHS services, and a volunteer agreement is in place between the trust and the volunteer or volunteer

organisation, then indemnity for clinical negligence will be provided under the Clinical Negligence Scheme for Trusts.

#### **5. How will retired staff coming back to work to support the response to the coronavirus outbreak be indemnified?**

In most cases, returning healthcare professionals will be covered by one of the two existing state schemes: the Clinical Negligence Scheme for Trusts (CNST) if they return to work in an NHS trust; and the Clinical Negligence Scheme for General Practice (CNSGP) if they are engaged by a GP practice providing NHS GP services. However, in the rare instances where these or other indemnity arrangements do not apply, the indemnity provision under the Coronavirus Act will apply.

#### **6. Will I be covered if I am asked to carry out duties outside of my usual job?**

Yes, providing you are acting in the course of your employment. The key factors to consider are that healthcare professionals should at all times ensure they are competent to carry out any practice requested of them. If you are asked to work for an NHS Trust or GP practice, the existing state indemnity schemes will provide you with cover for clinical negligence arising from your activities. In the unlikely event that you are involved in the novel delivery of NHS services that fall outside the scope of these state schemes, you will be covered by the indemnity provision under the Coronavirus Act.

For details of what roles and working arrangements are in place for doctors please see details on the GMC website [here](#), or the BMA [here](#).

#### **7. How can I decline if I am asked to work beyond my clinical competence?**

If the epidemic worsens it is likely that healthcare staff will have to work outside their normal field of practice. When deciding the safest and best course of action in the circumstances, healthcare staff should consider factors including what is within their knowledge and skills; the protection and needs of all patients they have a responsibility towards; and minimising the risk of transmission and protecting their own health.

- Medical Defence Organisations (MDOs) advise that any doctor faced with clinical duties outside their clinical competence should explain their concerns clearly to someone with responsibility for providing the service to determine the safest way to proceed.
- If they have done so and still feel uncomfortable, their MDO can advise them further. The GMC's Good Medical Practice should be followed.
- NMC have provided similar guidelines for Nurses and Midwives [here](#).

**8. If I have cover under this indemnity powers in the new Coronavirus Act 2020, can I cancel my existing policy and stop paying the premium for that policy?**

The indemnity powers in the new Coronavirus Act 2020 are not intended to replace existing indemnity arrangements. It provides a complementary indemnity to sit alongside your existing indemnity arrangements to ensure there are no gaps. This section is designed to act as a 'safety net', providing indemnity cover for NHS services related to the Coronavirus response, including any backfill arrangements that may be needed, to ensure the uninterrupted delivery of NHS services, where they are not already covered by existing indemnity arrangements.

**9. What is the position in Scotland, Wales and Northern Ireland?**

The Devolved Administrations have taken an equivalent approach to England. While the existing state indemnity coverage is different in Scotland and Northern Ireland from that in England and Wales, the indemnity powers provided by the Coronavirus Act 2020 are comparable across the four nations. In all four nations staff providing NHS services related to the coronavirus outbreak will have indemnity under the Act, where they are not already covered by an existing indemnity arrangement.

**10. What are the indemnity arrangements for pharmacists working in general practice and secondary care, including those returning to the profession to help with the response to the coronavirus pandemic?**

Pharmacists and Pharmacy technicians working for general practice and NHS trusts are covered by state-backed indemnity schemes, and returning professionals engaged by NHS trusts or GP practices will also be covered by these schemes (irrespective of whether the services are provided in a hospital, a clinic, on GP premises, etc.):

- The Clinical Negligence Scheme for Trusts (CNST), see link [here](#) for details, if they are engaged by an NHS trust to provide the NHS services.
- The Clinical Negligence Scheme for General Practice (CNSGP) if they are engaged by a GP practice to provide NHS services (i.e. a GP practice, the main business of which is the provision of NHS primary medical services, see link [here](#) for details).

During the outbreak, existing indemnity arrangements will continue to cover clinical negligence liabilities arising from the vast majority of NHS services, including staff working in a place that is not their ordinary place of work. To ensure there are no gaps in indemnity coverage, the Coronavirus Act 2020 provides additional powers to provide clinical negligence indemnity arising from NHS activities related to the Coronavirus outbreak, where there is no existing indemnity arrangement in place.

It provides cover for services directly related to coronavirus and for any backfill arrangements that may be needed, as a consequence of coronavirus, to sustain the delivery of NHS services.

This includes any pharmacists that are requested, or volunteer, to assist with the Government's NHS response to the Coronavirus pandemic.

**11. What are the indemnity arrangements for community pharmacists, including those returning to the profession to help with the response to the coronavirus pandemic?**

Pharmacists and Pharmacy technicians are regulated health professionals and must ensure they have adequate indemnity insurance cover, either personally or through their employer. Community pharmacy contractors may also carry indemnity insurance for staff undertaking pharmaceutical services on behalf of the NHS. It is highly unlikely that professionals and staff in community pharmacy will be asked to do anything that is outside of standard NHS pharmaceutical services, so their normal indemnity insurance will cover them. As any new services are developed and introduced, we have committed to keeping the insurers updated so that they can flag any indemnity issues with us.

However, we do not want any indemnity concerns to be a barrier or delay to the response to the coronavirus outbreak. The powers taken in the Coronavirus Act 2020 allow the Secretary of State to provide indemnity for clinical negligence liabilities arising from NHS activities carried out for the purposes of dealing with, or in consequence of, the coronavirus outbreak, where there is no existing indemnity arrangement in place. Under these powers we have made provision for organisations or individuals undertaking NHS activities to respond to the coronavirus to be covered for clinical negligence in these circumstances. This includes those working in community pharmacy delivering pharmaceutical services for the NHS.

**12. What medico-legal advice and support is available for doctors returning to the NHS from other medical posts?**

We recognise that returning doctors may also want to access medico-legal advice and support, and it is the Government's intention to ensure this is not a barrier to their return. The Medical and Dental Defence Union of Scotland (MDDUS), the Medical Defence Union (MDU), and the Medical Protection Society (MPS) have confirmed that they will provide medico-legal advice and support at no cost to their retired members who return to work on the COVID-19 response.

For retired MPS and MDDUS members this is automatic. MDU is asking retired members to complete a short form. More information for returning members is available at [www.mddus.com/coronavirus](http://www.mddus.com/coronavirus); [themdu.com/coronavirus](http://themdu.com/coronavirus); or [www.medicalprotection.org/uk/articles/information-for-retired-doctors](http://www.medicalprotection.org/uk/articles/information-for-retired-doctors).

### **13. What medico-legal advice and support is available for midwives returning on the emergency register?**

We recognise that returning midwives may also want access to medico-legal advice and support, and it is the Government's intention to ensure this is not a barrier to their return.

The Royal College of Midwives (RCM) has confirmed that it will extend all of the benefits of membership including Medical Malpractice Insurance (MMI) cover to any retired members who join the NMC's emergency register for the duration of the COVID-19 outbreak.

RCM's MMI will provide returning midwives with benefits and cover in addition to the vicarious primary liability provided by their NHE Employer, including insurance cover, legal advice and expenses and protection against claims for damages.

The terms and conditions of the RCM's MMI are set out at <https://www.rcm.org.uk/member-benefits/medical-malpractice-insurance/>

### **14. What medico-legal advice and support is available for nurses returning on the emergency register?**

The Royal College of Nursing has confirmed that if its student or retired members enter on to an emergency register at the NMC during the COVID-19 outbreak, and if they need legal representation for employment or regulatory issues arising from their time on those registers, RCN will provide that representation even if their membership status remains that of student or retiree. Accordingly, there should be no barrier to them taking on new duties without any need to inform RCN, and they can be confident that the RCN will provide them with the same support as if they had a full membership. Further information can be found at: <https://www.rcn.org.uk/covid-19>

(Published April 2020)