

Medical Indemnity

There is often uncertainty about what is covered by organisational indemnity and what is required from personal medical indemnity. Particularly for doctors training or working part-time in the hospice sector.

Hospices are independent, charitable organisations who work within the healthcare setting but are not part of the wider NHS system.

As a result of the first session we delivered at Hospice UK's National Conference 2023, as we committed to, we have formed this guidance to aid in ensuring the right cover for medical practitioners.

What is Organisational Indemnity?

Hospices should have a Medical Malpractice policy in place for the hospice and this will provide cover for the entity as a whole. This is an organisational policy that provides cover primarily to the hospice itself, however, the policy should include the ability to extend the organisational indemnity to nurses and nurse prescribers for any claims brought against them.

Be aware that under this policy, for the organisational indemnity to apply, it will have an expectation that the hospice takes steps to ensure that your consultants/medical practitioners have their own suitable cover in place in a personal capacity. Please also be aware that certain policies in the hospice insurance market will not provide cover for the activities of nurse prescribers so be sure that the insurance policy matches your employee profile.

Advice for Doctors

We know that many consultants don't just work in a hospice and their week could vary hugely with work in NHS settings, GP surgeries, private facilities, etc.

If you work in England as a GP, trainee GP or locum under a medical services contract (GMS, PMS or APMS) you should receive indemnity (for claims arising from incidents which took place on or after 1 April 2019) through the Clinical Negligence Scheme for GPs (CNSGP), which is administered by NHS Resolution. The Existing Liabilities Scheme for General Practice (ELSGP) may provide general practice staff with cover for claims relating to NHS clinical negligence that occurred before 1 April 2019.

If you work as a GP in Wales you should receive indemnity (for claims arising from incidents which took place on or after 1 April 2019) through a General Medical Practice Indemnity (GMPI) scheme managed by the Legal and Risk Services team at the NHS Wales Shared Services Partnership (NWSSP).

Please be aware that this doesn't apply to those who are operating in Scotland or Northern Ireland and for those in these areas, there remains a requirement for the GPs to hold their own indemnity cover.

For NHS Trust work - If you work for an NHS or HSC body, the organisation you work for should receive indemnity through a clinical negligence scheme.

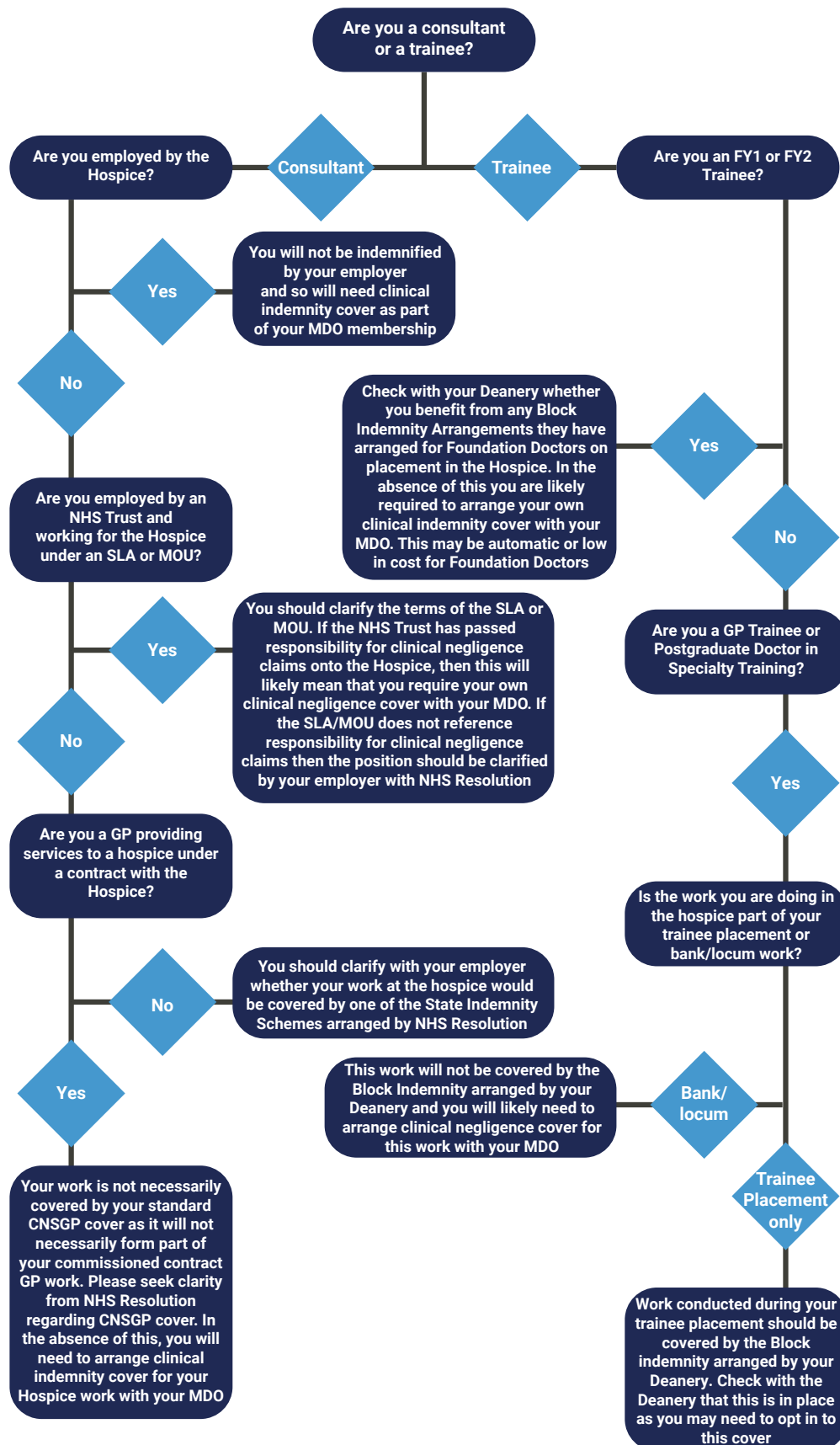
- > In England, indemnity is provided through the Clinical Negligence Scheme for Trusts (CNST), which is administered by NHS Resolution.
- > In Wales, indemnity is provided by Welsh Risk Pool Services.
- > In Scotland, indemnity is provided by the Clinical Negligence and Other Risks Indemnity Scheme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

This applies even if you are a locum for an NHS or HSC body.

As hospices are not part of NHS Trusts and the work performed in hospices does not fall within the scope of primary care provided by GP Practice under the primary care contracts referenced above, hospice work is generally considered to be 'Private Work'. On this basis, consultants working in hospices need to have their own clinical negligence cover in place. Your hospice is unlikely to be able to provide you with any indemnity under their organisational Medical Malpractice policy and any cover provided under CNSGP or CNST or similar schemes referenced above are also unlikely to provide cover for this work. This separate cover will be secured via a Medical Defence Organisation (MDO) such as MDU, MDDUS, MPS, etc.

Firstly, as a member of the MDO you will benefit from support with regulatory and disciplinary proceedings, employment and contractual disputes, and non-clinical liabilities. However, you must also ensure that you have a clinical indemnity provision as part of this arrangement in respect of the work that is not indemnified by your employer. It is important to ensure that this is on the correct basis with a declaration of your working pattern being shared with the MDO for them to arrange the cover accordingly. Many hospices will ask for a copy of your indemnity arrangements as part of pre-employment checks, you will need to update them should your working pattern/location change.

This flowchart below deals with various scenarios for consultants and trainee doctors who may be working in hospices. This is intended as a guide only and you should clarify the position with your employer and MDO to ensure that appropriate cover is in place for the work you are doing. This is vital both for the protection of the hospice but also for you personally as a lack of appropriate cover could result in significant financial exposure for you in a personal capacity.



Advice for Hospices

You need to ensure that you are checking to make sure that consultants have cover in place for their hospice sessions. It is also worth spending some time reviewing your contracts, MOUs, SLAs in place to ensure there is clarity around indemnity between the contracting parties. There are, however, occasions where further clarity is needed and we have tried to outline some specific examples of this below for your reference:

> **Seconded doctors**

You need to be clear in the contract for secondment who is responsible for indemnity.

> **On-call doctors**

Where this is being delivered by a third party entity (NHS Trust or private company), the indemnity position should be made clear in the contract.

> **Postgraduate specialty training doctors or GP trainees**

These trainees should benefit from Block Indemnity Arrangements which have been purchased by the Deaneries with various MDOs. You should ensure that this is the case when accepting a trainee. Where the trainee also engages in bank sessions outside of their specific training placement programme, this work will not be covered by the Block Indemnity Arrangements and the trainee will need to arrange cover with their MDO for these sessions.

> **FY1/FY2 doctors**

These doctors may benefit from Block Indemnity Arrangements, however, confirmation of this should be sought when accepting these trainees. In the absence of a Block Indemnity Arrangement, the trainee will need to arrange clinical indemnity cover with their MDO. Most MDOs have specific arrangements in place for foundation doctors which may provide clinical indemnity cover at reasonable cost.

With thanks to:

Colleagues at Hospice UK, North London Hospice, St Luke's Hospice Sheffield and NHS Resolution.

What are we doing now?

This guidance note isn't the end of the road for us on this topic. We are working together with Hospice UK to try and seek a solution for a national policy for indemnity for the sector.

For more information please contact



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