

## **Professional indemnity cover and your registration**

### **1. Introduction**

#### **About this document**

We have written this document about the requirement for registrants to have appropriate professional indemnity cover 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 appropriate professional indemnity cover as a condition of registration does not apply to social workers in England.**

#### **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 potential registrant.

We have used 'service user' in this document to refer to patients and clients who use the services of our registrants. Who service users are will vary between the different professions we regulate.

### **2. About the HCPC**

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. What you need to know as a registrant

### Summary

You are now required to make sure that you have appropriate professional indemnity arrangements in place as a condition of your registration with us. Many registrants will already meet this requirement because they will be indemnified by their employer and/or because they hold separate professional indemnity insurance obtained through their professional body or directly from an insurer.

The following is a straightforward summary of what the requirement to have appropriate professional indemnity cover means for you. We have explained more about this in the sections that follow.

- You must make sure you have professional indemnity cover in place when you practise. This could be:
  - via your employer if you are employed;
  - as part of a membership of a professional body;
  - directly from an insurer; or
  - a combination of the above.
- You must make sure that the indemnity cover you have in place is appropriate to your practice. This means that the cover you have in place needs to be relevant 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 and are in any doubt, you should always ask what is covered by your employer's indemnity arrangements.
- If you are self-employed, you are likely to need to have your own indemnity insurance in place. You should make sure that you understand the terms of your insurance policy and declare any relevant information to your insurer.
- If you undertake both employed and self-employed work you need to make sure that you have professional indemnity arrangements in place which cover all of your practice.
- If your practice or circumstances change, you need to consider whether you might need to change the cover you have in place or arrange additional cover.

- If you registered with us as a social worker, you will not need to meet this requirement as a condition of your registration. However, you still might want to make sure that you have cover in place which is appropriate to your practice.

### **3. About professional indemnity cover**

This section provides more information about the requirement to have appropriate professional indemnity cover 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 professional indemnity cover as a condition of their registration with us. The cover must be appropriate to their practice.

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

From April 2014 we will start asking registrants and applicants for registration to make a declaration that they have appropriate professional indemnity cover in place (or will have it in place once 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, or they will have their own professional indemnity insurance. This means that many registrants may not need to take any additional steps to meet this requirement.

However, other registrants may need to take steps to make sure that they have appropriate cover in place for their practice, for example, if they carry out a combination of employed and self-employed roles.

This requirement to have professional indemnity cover may be met, for example, through one or more of the following arrangements

- Indemnity arrangements provided by your employer.
- Indemnity insurance provided as part of a professional body membership.
- Indemnity insurance obtained by you directly through an insurer.

#### **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 appropriate professional indemnity cover in place when you are registered with us.

This document will help you in understanding our requirements. However, if you are unsure, you should seek further advice. This might include speaking to your professional body, your insurer (if appropriate) or your employer.

## **‘Appropriate’ professional indemnity cover**

By ‘appropriate’ indemnity cover we mean that you have cover in place which is appropriate to your practice, having regard to the nature and extent of its risks. The cover needs to be sufficient to meet any liability that may be incurred if a successful claim is made against you arising from your professional practice. What is appropriate cover will vary between registrants and depend upon a number of factors, including:

- The practice area or areas in which they work;
- The service-users they work with;
- The risks involved in their practice.

What might be appropriate cover for one registrant may not be appropriate 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 indemnity cover which is appropriate to those risks.

If you only work for an employer, then your employer is likely to have indemnity arrangements in place which will cover all the relevant risks whilst you are working for them. Some employers may ask their staff to have their own professional indemnity insurance in place. If you are in any doubt, you should always ask about what is covered by your employer’s indemnity arrangements.

If you are self-employed you are likely to need to have your own professional indemnity insurance in place. Many professional bodies offer professional indemnity insurance as part of their membership or for an additional fee, or you can arrange your own cover directly through an insurer. You should make sure that you understand the terms of your insurance policy and declare any relevant risks to your insurer. If you undertake a combination of employed and self-employed work you need to make sure that you have cover in place which covers all of your practice.

We recognise that your practice or circumstances 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. You should make sure that you continue to have in place cover which is appropriate to your practice.

We consider that you are in the best position, seeking the advice of your employer, professional body and/or insurer, to make reasonable, informed decisions about the indemnity cover which is appropriate to you and your practice. You need to be able to justify your decisions.

## **Voluntary work and Good Samaritan acts**

The requirement to have appropriate indemnity cover applies to all professional practice, including that undertaken in a voluntary capacity. Many registrants will

undertake voluntary work which does not require HCPC registration. That type of voluntary work does not amount to professional practice for which indemnity cover is mandatory. However, if you practise your profession as a volunteer then you will need appropriate indemnity cover. Some voluntary organisations will provide this indemnity cover and any existing insurance you hold may also cover voluntary work.

The HCPC does not regard 'Good Samaritan' acts as professional practice for which indemnity insurance is required. However, registrants should be aware that a Good Samaritan - someone who provides first aid or other emergency assistance to an individual when there is no professional obligation to do so - still assumes a duty of care and, as there are no Good Samaritan laws in the United Kingdom, it would be possible for a Good Samaritan to be sued for negligence (although in practice this is unlikely).

### **Checking that cover 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 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 declaration about the professional indemnity cover you have in place. We will ask you to complete a declaration to confirm that:

- you have appropriate professional indemnity cover in place; or
- if you are not practising at that time, that you will have such cover in place before you begin to practise.

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

As having appropriate professional indemnity cover is a condition of your registration, if you are unable to sign the declaration you will be unable to renew your registration with us and would be removed from the Register.

If you cease to have appropriate indemnity cover, you need to inform us. This can be done by contacting our Registration Department. However, you do not need to tell us about routine changes to your indemnity cover, such as a change of insurer or cover ceasing because you are no longer working.

If you are applying to be registered with us, we will ask you to sign a declaration to confirm that you understand the requirement to have appropriate professional indemnity cover and that you will have appropriate cover in place before you begin to practise.

## **Indemnity cover and fitness to practise**

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

Most registrants will complete declarations honestly and ensure that they have appropriate professional indemnity cover in place. 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 false declaration that they have professional indemnity cover in place;
- registers or renews their registration with us but cancels their indemnity cover and fails to put alternative cover in place; or
- has professional indemnity cover which is inappropriate for their practice.

It is your responsibility to ensure cover is appropriate. You need to check that cover provided by others, for example an employer, meets the requirements. In relation to your dealings with insurers, as insurance contracts are subject to an 'utmost good faith' requirement, you must disclose all material information which would influence an insurer's decision on whether or not to provide you with cover. A registrant who knowingly had inadequate indemnity cover would be liable to Fitness to Practise proceedings.

## **Social workers in England**

The legal requirement to have indemnity cover does not apply to social workers in England.

Many social workers in England are likely to meet the requirement anyway. They will be indemnified by their employer or, if they practise independently, will hold their own professional indemnity insurance.

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

## **3. Accountability**

As an autonomous professional, you are responsible and accountable for the decisions you make. You are best placed to make decisions, taking account of the way in which you practise. You need to make informed and reasonable decisions about your own practice to make sure you have declared any relevant risks to any insurer. It is important that you are able to justify the decisions that you make.



#### **4. More information**

If you have any questions, please contact us. Please be aware, however, that we cannot offer advice on what level of indemnity cover is appropriate. You can contact us at:-

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

Tel +44 (0)845 300 6184

You can view 'frequently asked questions' about this requirement on our website at [www.hcpc-uk.org](http://www.hcpc-uk.org).

We recognise the valuable role professional bodies play in representing and promoting the interests of their members. This may also include guidance and advice on indemnity arrangements for health and care professionals.