

Individual membership

Statement of benefits

Company	Medical Protection
Product	Claims-made medical malpractice indemnity

Medical Protection is a trading name of The Medical Protection Society Limited (“MPS”). MPS is a company limited by guarantee in England with company number 00036142 and with its principal place of business at Victoria House, 2 Victoria Place, Leeds LS11 5AE. Medical Protection serves and supports the medical members of MPS with access to the full range of benefits of membership, which are all discretionary, and set out in MPS’s Memorandum and Articles of Association. MPS is not an insurance company. Medical Protection® is a registered trademark of MPS.

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This document contains a summary of the key features and limitations of claims-made discretionary membership. Your membership documents will detail the benefits available to you, and you should check these for any endorsements that change the scope of protection provided.

Why do I need indemnity?



While medical indemnity or insurance is not a mandatory requirement in all the countries where we offer membership, it is generally recommended by the in-country Medical Council that healthcare professionals who are subject to statutory regulation, have appropriate protection in place. It is often required by hospitals and other healthcare providers for doctors seeking practicing privileges. This is to ensure patients will be adequately compensated if they suffer harm due to clinical negligence when seeking legal recourse. In turn, medical indemnity or insurance protects you as a registered professional.

Many healthcare professionals have indemnity arrangements through their place of work which cover some of their clinical negligence liabilities and regulatory matters. Some independent healthcare providers may also offer indemnity for their employees as part of their employment contract.

Typically, any protection you may benefit from through employer or state indemnity only covers clinical negligence claims and vicarious liabilities arising from public work (excluding Good Samaritan acts that are not considered part of the healthcare practitioner’s work for the employing body). However, these indemnity arrangements usually do not offer protection for any private or independent practice you carry out.

It is advisable to have insurance or indemnity arrangements in place covering the full scope of your clinical practice, so you should consider arranging separate clinical negligence indemnity or insurance for any gaps which may include assistance with complaints, personal regulatory and medicolegal support / advice.



What does Medical Protection offer?



We offer discretionary indemnity and not insurance. We offer two types of professional protection: claims-made and occurrence-based depending on your practice, as described below.

- **Claims-made indemnity** means that to request assistance for an adverse incident you must be in a period of active membership, both at the time the incident occurred and at the time we are notified of it. You should therefore report adverse incidents or possible adverse incidents to us as soon as practically possible. An adverse incident is any event or circumstance that might give rise to a claim of clinical negligence against you.
- **Occurrence-based indemnity** protects you for incidents that occur during your period of membership, even if a claim related to the incident is not made until years after. Providing you were in membership and paying the correct subscription at the time of an incident that's given rise to a case or claim, we can protect you even if you're retired or no longer in membership.

This Statement of Benefits is for **claims-made indemnity**. Students and corporate entities have different membership options. For the full range of membership types we offer, including occurrence-based indemnity, please refer to the relevant Statement of Benefits available online or on request.

How does Medical Protection claims-made indemnity work?



When you join Medical Protection, your membership protects you for matters relating to incidents occurring after your membership start date. If your previous provider offered protection on a claims-made basis, you can request a retroactive date to your membership which allows you to report matters that relate to your practice prior to joining Medical Protection.

This retroactive protection ensures that you have continuous protection for claims which you are currently unaware of that might arise from your clinical practice in previous years.

If you become aware of an adverse incident that occurred during the time you were with your previous provider(s), you can report this to us and request assistance should anything arise from it in the future, so long as you notify us as soon as possible and your claims-made membership remains active. This is providing you were not aware of the incident when you joined Medical Protection, as this should have been reported to your previous provider(s).

Because a retroactive date expands protection to include reporting rights for your past work covered elsewhere, it is crucial that the date you specify for your Medical Protection membership is correct.

Retroactive protection through our claims-made membership is only available to individual healthcare practitioners that are joining Medical Protection from a claims-made provider. It is important to note that we cannot offer retroactive protection for any past period where you worked without any indemnity or insurance arrangements in place.

What are the benefits of Medical Protection claims-made membership?



Our claims-made membership protects you for matters that arise from your practice from the agreed retroactive date, meaning you can:

- ✓ Report adverse incidents and claims to Medical Protection for your work carried out whilst in membership.
- ✓ Report adverse incidents and claims to Medical Protection from work under your past cover with your previous claims-made provider(s), which you were unaware of prior to joining Medical Protection.
- ✓ Seek assistance with any subsequent matters or claims arising from incidents appropriately notified to Medical Protection.

Membership benefits differ depending on whether work is private or independent practice or carried out in public healthcare institutions. All requests for assistance are considered on their individual circumstances, declared scope of practice and membership in place at the time.

Your membership is designed to provide personalised protection for your individual practice. However, if your membership includes claims indemnity, you can also seek assistance with clinical negligence claims arising from the actions of up to four full-time equivalent (FTE) staff, who support your individual practice and for whom you are vicariously liable (as a practice owner, for example). Of these, a maximum of two FTE can be clinical support staff that are not required by law to have their own individual indemnity, or for whom we do not offer a separate category of membership (such as nurses). The remaining FTE can be administrative non-clinical roles, such as a receptionist.

Membership benefits are summarised in the table below, however, you should also read your membership documents to check which apply to you:

Indemnity for clinical negligence arising from:

- ✓ Private or independent / non-employer or state indemnified clinical practice
- ✓ Good Samaritan acts (worldwide)
- ✓ Voluntary, humanitarian or charity work (on request)

Representation for:

- ✓ Regulatory matters
- ✓ Disciplinary proceedings
- ✓ Criminal allegations arising from your clinical practice
- ✓ Coroners' inquests

Support with:

- ✓ Medicolegal advice (emergency helpline available 24/7)
- ✓ Defamation cases (legal costs only)
- ✓ Breach of confidentiality (directly related to clinical practice)
- ✓ Complaints handling
- ✓ Unwanted media attention
- ✓ Wellbeing support
- ✓ Professional development (for example, online learning and resources)

Extended Reporting Benefit (ERB)

An ERB enables you to report adverse incidents that occurred during your claims-made membership, which you only become aware of after your membership has ended. Once reported, you can seek our assistance with any claim arising from such an incident.

This is important because it is not always obvious that an adverse incident has occurred, and you may only become aware of an issue years later or even after you have retired.

When you retire or cease practice in your country of membership, you can apply for an ERB. Our ERB can also be used by your estate to report incidents which occurred during your membership but only come to light after you die.

Please note that you do not need an ERB to continue to receive assistance from us relating to a claim arising from an incident already reported during your claims-made membership.

What is not indemnified?



We carefully consider each request for assistance on a discretionary basis, but there are some circumstances in which we are unlikely to help. The following list, while not exhaustive, are some examples of matters that we would be unlikely to assist with:

- ✖ Any previous practice undertaken
 - that is not within an agreed retroactive period, or
 - without an insurance or indemnity arrangement in place at the time.
- ✖ Incidents known to you when applying for membership with us (these should have been reported to your previous provider).
- ✖ Any case or claim that has or should have been notified under any previous insurance or indemnity arrangement.
- ✖ Any case and / or claim relating to a procedure which is outside of the current scope of membership, and you did not declare to us when you joined that you were performing different types of procedures and / or working in a different specialty with your previous provider(s).
- ✖ Any matters or claims arising from adverse incidents occurring outside of your membership, unless you have a retroactive date.
- ✖ Any matters or claims that are notified to us more than 30 days after the end of your membership, unless you have an ERB in place.
- ✖ Matters related to deliberate, reckless or criminal acts.
- ✖ Matters related to personal conduct unless brought before your professional regulator.
- ✖ Assistance with research for academic projects.
- ✖ Claims or vicarious liabilities that fall under the provisions of employer / state indemnity or equivalent.
- ✖ Assistance with criminal investigations or proceedings arising from non-professional practice for example, drink-driving offences, possession of drugs or assault.
- ✖ Assistance with allegations of fraud.
- ✖ Payment of fines or financial penalties.
- ✖ Claims brought outside the territorial limits (unless they arise from Good Samaritan acts which are protected worldwide or work elsewhere that has been declared and agreed by us).
- ✖ Matters arising from intentionally performing, supporting or encouraging female genital mutilation / female circumcision.
- ✖ Matters arising from the use of fully autonomous* Artificial Intelligence (AI) systems, tools or robotics.
- ✖ Matters arising from use of robotics where the clinician, robotic device and patient are not co-located.
- ✖ Matters that fall outside of healthcare indemnity, such as claims relating to property, including its damage or destruction or claims arising from cyber-attacks and / or cybersecurity breaches.
- ✖ Claims arising from your vicarious liability (other than as described above).
- ✖ Matters of commercial interest such as partnership, employment or agency disputes (whether contractual or otherwise), or compensation claims.
- ✖ Claims brought under the relevant data protection and equality laws applicable to the territorial limits. We may use our discretion to assist where the claim arises from a clinical consultation.
- ✖ Claims relating to making, distributing or selling any product or the use of any unsuitable or defective product (Product Liability).
- ✖ Other matters which may not be in the wider interests of our members, for example, damages awarded in a claim for defamation against you or personal costs arising from your attendance at court, hearings or meetings with us about a case.

**Fully autonomous means that a clinician does not maintain oversight or final decision-making authority. AI must support but not replace clinical professional judgement.*

Are there any financial limitations to my membership?



There are financial limits to claims-made indemnity provided to individual members however, no excesses apply. The total amount we will pay for each claim or occurrence and the aggregate of all claims, legal costs and other matters paid under each membership period will not exceed the maximum limit of indemnity, as shown in your membership documents.

When we agree to take on a case, we can take care of your legal costs as well as any payments for damages or costs ordered against you or agreed in the settlement of the claim.

Where am I indemnified?



Individual claims-made membership is available to healthcare professionals practising in the territorial limits specified in your membership documents and also provides protection for Good Samaritan acts worldwide.

What does 'discretionary' membership mean for you?



We are dedicated to treating members fairly and placing them at the heart of everything we do.

All the benefits of membership are discretionary, as set out in our Memorandum and Articles of Association (available on request and online). Among these benefits is the right to ask for assistance with a range of medicolegal issues, including indemnity for clinical negligence claims. As a mutual society we are owned by our members, so our starting point is always to see how we can help.

When determining whether or not to provide a member with assistance, or the scope of any assistance that can be offered, we ensure that the circumstances of the case are considered on an individual basis by appropriately qualified advisers, who are trained in medicolegal matters. These advisers will exercise their good judgment, on the basis of their experience and knowledge of modern practice, and in line with our established procedures to ensure due process is followed, to decide whether or not we should assist in each particular circumstance. We will never exercise our discretion in an arbitrary or irrational way.

What are my responsibilities as a member?



All the benefits of membership are discretionary and subject to you complying with the Memorandum and Articles of Association. You must:

- ! Ensure you have notified any known claims or circumstances to prior insurers as they will not be indemnified by this membership.
- ! Ensure that any retroactive date is appropriate for this membership.
- ! Be registered and / or licensed with the appropriate regulatory body to carry out the clinical duties you undertake, have appropriate training and experience, and be (or have been) working within the boundaries of your professional competence and scope of practice.
- ! Take reasonable steps to prevent accident or injury.
- ! Provide true, accurate and complete information when taking out, renewing or making changes to your membership to ensure that the protection provided is appropriate for the work you undertake.
- ! Ensure your membership subscription is paid on time and that this reflects your current scope of practice.
- ! Check your membership documents and tell us (or our in-country administrator) in advance of any changes to your practice during your membership period including your role, hours or scope of practice to ensure that you are suitably protected.
- ! Let us (or our in-country administrator) know as soon as reasonably possible if your contact details change.
- ! Not have equivalent benefits available from us with another medical defence organisation or an insurer without our agreement.

Your ability to request assistance from us depends on two things:

- the date on which an adverse incident occurred; and
- the date the adverse incident and claim is reported to us.

The nature of clinical negligence means that a significant amount of time can go by between an adverse incident happening and a claim being brought. Recording the incident details early helps us manage the outcome more effectively and will ensure you are protected if it develops into a claim.

So, in the event that you become aware of an adverse incident, complaint or claim, or you wish to seek our assistance, you must tell us as soon as possible if an adverse incident occurs. If you do not let us know, it could mean that if a claim is ever made against you following the incident, we are unable to assist.

We are unable to assist with any matters or claims arising from adverse incidents occurring outside of your membership, unless you have a retroactive date. We are also unable to assist with any matters or claims that are notified to us more than 30 days after the end of your membership, unless you have an ERB in place.

Additionally, you must:

- ! Comply with our reasonable requirements for case management (for example, attending conferences or meetings to provide information).



- ! Be honest and truthful in all dealings and behave in a reasonable manner towards our staff.
- ! Accept our choice of legal representation (local or otherwise).
- ! Accept our advice and conduct of cases in all material matters (including case strategy and settlement).
- ! Co-operate fully with us and our representatives.
- ! Provide full and accurate information relevant to the case without delay and act in good faith at all times.
- ! Not disclose the amount of protection available to any third party unless you have our prior written consent.
- ! Not admit legal liability for a claim or settle a claim without our agreement. This does not restrict you from being transparent in the event of an adverse incident, or from providing an appropriate apology.

Any failure to disclose full and accurate details could result in us rejecting requests for assistance, declining or withdrawal of membership benefits and / or the cancellation or non-renewal of your membership.

When and how do I pay?



Your membership subscription is payable by the due date. For full details on how to pay, please see your membership documents.

When does my membership start and end?



Your membership starts on the date shown on your certificate of membership. Your membership will run for 12 months (unless stated otherwise in your membership documents). During your membership, you must let us (or our in-country administrator) know of any changes to the information we hold about you. You will be notified when your membership is approaching renewal, and your subscription should be paid by the due date to ensure continuous membership.

Can I pause my membership?



You can apply for deferred membership if you are already a member and plan to temporarily stop working in medicine for a period of three months or more due to a career break, maternity or paternity leave or long-term sickness.

An adjusted subscription will apply to deferred membership periods that are over three months, but less than 12 months and you are still eligible to report incidents during this period. As a deferred member for up to 12 months, you can still apply for assistance with any medicolegal problems arising from a Good Samaritan act and can continue to access our risk prevention and wellbeing support services.



If you do not return to work before your deferred membership ends, your membership will be cancelled, and you can apply for an ERB so you can continue to report claims and other matters against your membership period once it has expired. You will be required to pay a subscription for the ERB to be eligible for support and to report incidents for the period of the ERB after your primary membership has ended. If you subsequently return to work, you will need to re-apply for membership (subject to Underwriting) before your start date.

Do I still need my membership if I stop practising altogether?



With claims-made protection you would need to apply for an ERB at the point of retirement, long-term sickness or if moving overseas, as your membership will be cancelled. Our ERB requires you to pay a subscription and is designed to provide reporting benefits for clinicians who have permanently left practice. You can still apply for assistance with any medicolegal problems arising from a Good Samaritan act and can continue to access our risk prevention and wellbeing support services.

Should you decide to return to medicine, you will need to re-apply for membership (subject to Underwriting) before your start date to ensure that there are no gaps in protection.

How do I cancel my membership?



- Your membership is on an annual basis (unless stated otherwise).
- You may cancel your membership with us (or our in-country administrator) by phone or in writing (email or post) within 30 days of the start of your current membership period. It is important to note that any incidents notified to us during the 30-day period will not be eligible for assistance if your claims-made membership is cancelled.
- You can choose not to renew your membership by providing notice to us (or our in-country administrator) at any time before the end of your current membership period.

It is important to note that when switching to another provider, our claims-made membership does not provide an ongoing right to request assistance beyond the period of membership, as there is no ERB option. So once your claims-made membership ends, you cannot notify us of any known adverse incidents or new claims arising from the membership period. You will need to ask your new insurer or indemnity provider for retroactive protection to cover any claims arising from your membership period that have not been notified to ensure no gaps in protection.