



New Zealand corporate membership

Statement of benefits

Company	Medical Protection / Dental Protection
Product	Occurrence-based medical / dental malpractice indemnity

The Medical Protection Society Limited (“MPS”) is a company limited by guarantee registered in England with company number 00036142 at Level 19, The Shard, 32 London Bridge Street, London, SE1 9SG. MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association. MPS®, Dental Protection® and Medical Protection® are registered trademarks. For information on MPS’s use of your personal data and your rights, please see our Privacy Notice on the website.

This document contains a summary of the key features and limitations of occurrence-based discretionary corporate 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 is corporate membership needed?



Unlike other countries where we provide membership, New Zealand operates a no-fault compensation scheme run by the Accident Compensation Corporation (ACC), which means clinical negligence claims are uncommon however, if our members do face a claim that is not covered by the ACC, our corporate membership can help.

Traditionally, clinical negligence claims are made against individual healthcare professionals, or sometimes the clinical partners that employ them. But where a healthcare professional works for a corporate entity, a claim can be made against the corporate entity, either instead of or as well as the individual.

A legal entity (for example, a private limited company) could be held liable for a range of problems, including but not limited to:

- the actions or omissions of staff, whether or not they have their own professional indemnity arrangements (for example, healthcare assistants (HCAs) / support workers and administrative staff); and
- failures in practice systems or procedures such as patient referrals or test results; and
- a failure to properly investigate complaints or patient safety concerns.



Even where claims are made against an individual doctor, dentist or nurse there is still a risk that the corporate entity itself is also sued for failures in its procedures and controls, so you should consider arranging appropriate clinical negligence indemnity or insurance for your business. This is to ensure patients will be adequately compensated if they suffer harm due to medical / dental negligence when seeking legal recourse.

What does corporate membership offer?



Corporate membership offers discretionary indemnity and not insurance. Our corporate membership can:

- provide indemnity for clinical negligence claims brought against the corporate entity for its activities in providing clinical professional services; and
- respond to claims brought against certain staff (whose roles are indemnified through the corporate membership and fully set out in the Terms of Membership), but where the corporate entity itself is not named in the litigation.

Corporate membership provides you with occurrence-based indemnity for clinical negligence arising from your clinical practice that is out-of-scope of the ACC.

Occurrence-based indemnity means you can ask for assistance with a claim and other matters relating to your clinical practice that arise during your membership, regardless of when the claim is notified or whether you are still a member.

This membership type is only available to corporate entities and not individual students, medical / dental practitioners, registered dental ancillaries / auxiliaries or healthcare professionals.

What does 'discretionary' membership mean for your company?



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 at medicalprotection.org/newzealand or dentalprotection.org/newzealand). Among these benefits is the right to ask for assistance with a range of medicolegal / dentolegal 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 corporate 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 / dentolegal 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 and irrational way.



What does corporate membership provide?



Corporate membership provides protection for the corporate entity and certain staff whose roles are listed in the Terms of Membership.

All registered medical / dental practitioners not protected by the corporate membership and who work for or are engaged by the corporate must, where there is a professional / legal requirement to do so, have and maintain their own individual insurance or indemnity arrangements covering the full scope of their practice in New Zealand applying to this membership.

All requests for assistance are considered on their individual circumstances, declared nature of work, locations of clinical services provided, specified staff roles and membership in place at the time.

Membership benefits are summarised below however, you should also read your Terms of Membership to check which apply to your membership:

Corporate membership benefits

GENERAL MEMBERSHIP INFORMATION

Corporate membership provides indemnity on an occurrence basis for claims and other matters relating to clinical negligence brought against the organisation that are out-of-scope of the ACC.

It includes specified roles for staff who work for the corporate that do not require separate indemnity – such as (but not limited to) receptionists, administrators, nurses, associates (occupational health therapist, speech and language therapist, phlebotomist, community nurse), HCAs / support workers and registered dental ancillaries / auxiliaries (for example, dental nurses, technicians). These roles must first be declared to us and listed in the Terms of Membership for staff to benefit from corporate membership.

How much we indemnify the corporate for:

The total amount we will pay per claim or occurrence and in the aggregate of all claims, legal costs and other matters paid under any membership period will not exceed the maximum limit of indemnity set out in the Terms of Membership:

All claims under the membership period

Each claim or occurrence

Limits of indemnity are available up to GBP 10,000,000 (or local equivalent), subject to Underwriting approval, for each claim or occurrence and in the aggregate.



AVAILABLE AS STANDARD

- ✓ **Dedicated account manager**
- ✓ **Bespoke underwriting and pricing based on often unique, corporate requirements**
- ✓ **Medical / Dental Malpractice.** Payment of compensatory damages for non-ACC claims brought against the corporate arising from a negligent act, error or omission. This includes claimant costs
- ✓ **Defence costs.** Legal costs incurred for defending a claim
- ✓ **Advancement of defence costs.** To ensure legal fees are paid for as they occur
- ✓ **Good Samaritan acts.** Protection for liability arising during a Good Samaritan act (worldwide)
- ✓ **Indemnity to principal.** Protection is provided for the listed principal when they are named in a liability suit involving the organisation
- ✓ **Vicarious liability.**
 - For staff listed in the Terms of Membership (including compensatory damages), and
 - We will pay reasonable legal defence costs to deflect claims onto the treating clinician (excluding compensatory damages)
- ✓ **Medicolegal / Dentolegal protection.** Advice and support for named representatives in handling difficult situations and resolving problems before they escalate into complaints:
 - Access to regulatory defence costs / regulatory proceedings
 - Defence costs for legal proceedings brought against the corporate by a regulatory authority
 - Access to advice and assistance with incidents and complaints against the corporate entity
 - Access to the Medical Protection / Dental Protection professional advice line

Additional services may be agreed on a case-by-case basis (for example, loss of documents), as well as any limitations, exclusions, special terms or conditions of membership and will be documented in your Terms of Membership should they apply to you.



What is not indemnified?

We carefully consider each request for assistance on a discretionary basis and any conditions, extensions and exclusions are considered on a member-by-member basis, based on risk appetite. However, 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 provision of professional clinical services by the corporate
 - that is not within the retroactive period.
 - without insurance or an indemnity arrangement.
- × Protection for circumstances and / or claims known by the corporate before the membership start date (these should have been reported to your previous provider).
- × Claims caused by any malpractice incident, negligent act, error, omission, breach or loss that occurred before the membership start date.
- × Any claims that arise from events that occur after your membership has ended.
- × Any claims and other matters relating to clinical negligence brought against the organisation that fall within the scope of the ACC.
- × Assistance with criminal investigations or proceedings arising from non-professional practice for example, drink-driving offences, possession of drugs or assault.
- × Matters related to wrongful acts. We will not pay any compensatory damages or defence costs directly or indirectly caused by or arising out of or in any way connected with:
 - any criminal acts; or
 - any deliberate or wilful misconduct; or
 - any person performing your business whilst under the influence of intoxicants or narcotics.
- × Matters related to the assistance with, or the conduct, management or oversight of clinical trials by you or your staff (unless specifically requested, approved by us prior to the start date of the clinical trial and your Terms of Membership states indemnity for clinical trials is included).
- × Acts of registered dental ancillaries / auxiliaries or healthcare professionals, unless specified and recorded as included in the Terms of Membership.
- × Assistance with allegations of fraud.
- × Payment of fines or financial penalties.
- × Claims brought outside New Zealand (unless they arise from Good Samaritan acts which are protected worldwide).
- × Matters arising from intentionally performing, supporting or encouraging female genital mutilation / female circumcision.
- × 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.
- × Matters of commercial interest such as partnership, employment or agency disputes (whether contractual or otherwise), or compensation claims.



- ✘ Claims brought under the relevant data and equality laws applicable to New Zealand. We may assist where the claim arises from a clinical consultation or treatment.
- ✘ Claims relating to making, distributing or selling any product or the use of any unsuitable or defective product (Product Liability).
- ✘ Claims made against any of your directors or officers (Directors' and Officers' Liability).
- ✘ We will not pay any compensatory damages or defence costs that you are liable to pay in respect of your liability as an employer (Employers' Liability).

Are there any financial limitations to my membership?



When assistance is granted, be aware there are financial limits to occurrence-based indemnity provided to corporate 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 corporate membership period will not exceed the maximum limit of indemnity, as shown in your Terms of Membership.

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?



Corporate membership is available to healthcare providers operating in New Zealand and also provides protection for Good Samaritan acts worldwide.

What are my responsibilities as a corporate member?



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

- ! Ensure your Terms of Membership adequately reflects the roles indemnified and the business description adequately reflects the clinical services you provide.
- ! Notify us as soon as practicable of any inaccuracies in the information you have given us.
- ! Ensure you have notified any known claims or circumstances to prior indemnity / insurance providers as they will not be indemnified by this membership.
- ! Ensure that all clinical staff (including registered dental ancillaries / auxiliaries and / or healthcare professionals who work for the corporate):
 - have and maintain current, adequate and appropriate indemnity / insurance protection where there is a professional / legal requirement to do so; and



- are registered / licensed with the relevant professional body and advise you of any changes to their registration status; and
 - work within the boundaries of their professional competence and scope of practice; and
 - take all reasonable steps to comply with all relevant applicable laws, obligations, requirements, regulations, and codes of professional conduct.
- ! Ensure that all staff:
- have appropriate qualifications and training for the work they undertake; and
 - receive induction and on-going training / supervision (including temporary / locum staff).
- ! Maintain a record of the maintenance and servicing of all clinical equipment or devices and retain such records in accordance with established local / national guidance.
- ! Conduct regular audits of the clinical records maintained by individual clinicians.
- ! Retain a record of the contact details for all clinical staff, healthcare professionals and / or registered dental ancillaries / auxiliaries which should be updated at the time they cease to work for you.
- ! Provide us with all the risk locations where clinical services are provided (including where different from the registered office).
- ! 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 clinical services you provide. This is especially important for the retroactive date, if you have requested one from us.
- ! Tell us in advance of any change that materially changes the risk indemnified by your membership (for example, any fluctuations to stated roles and numbers (full-time equivalent), any business expansion, introduction of new procedures / services or further risk locations) to ensure that your company is suitably protected.
- ! Let us know as soon as reasonably possible if your contact details change, including authorised persons assigned to manage your membership.
- ! Take reasonable steps to prevent accident or injury.
- ! Pay your membership subscription on time.
- ! Not have equivalent benefits available from corporate membership with another medical / dental defence organisation or an insurer without our agreement.

In the event that you become aware of an adverse incident, complaint or claim, or you wish to seek our assistance, you must:

- ! Notify us at the earliest opportunity of any matter where assistance may be required or that may lead to a claim.
- ! 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.

You may have specific additional obligations under your membership which will be shown in your Terms of Membership.

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?



You can choose to pay your membership subscription annually or quarterly by bank transfer. No charges will be applied for paying in instalments. It is important that your subscription is paid by the due date to ensure continuous protection.

When does my membership start and end?



Your membership starts on the date shown in your Terms of Membership. Your membership will run for 12 months (unless stated otherwise in your Terms of Membership). During your membership, you must let us know of any changes to the information we hold about you. We will send you notice when your membership is approaching renewal.

How do I cancel my membership?



- ! Corporate membership is on an annual basis (unless stated otherwise).
- ! You may cancel your membership by phone or in writing (email or post) within 30 days of the start of your current membership period. If you have not made or notified us of a claim or circumstance, then we will refund your subscription in full and treat this membership as if it never existed. If any claim or circumstance has been made or notified, no refund will be allowed, and the full subscription is due.
- ! If your membership is cancelled at any time after the first 30 days, we will provide a refund for the remaining period unless you have previously notified us of any claim or circumstance. In which case, no refund will be allowed, and all the remaining membership subscription becomes payable on the date you give notice to cancel. Your subscription must be paid in full prior to the cancellation date.
- ! You can choose not to renew your membership by providing notice at any time before the end of your current membership period.