



## Indemnity in general practice

### Developing a more affordable and stable future

#### Introduction

On 12 October 2017 the Secretary of State for Health has announced that the Department of Health is planning the development of a state-backed indemnity scheme for general practice in England, subject to further work on relevant issues.

The Department understands that the rising cost of clinical negligence is a great source of concern for GPs and impacts negatively on the GP workforce, and we are seeking to put in place a more stable and more affordable system of indemnity for general practice.

This complex piece of work is at an early stage and this announcement marks the start of detailed work with GP representatives and others to develop our plans. The Department appreciates that there will be substantial interest in this work, and there are many issues still to address going forward.

The information below is provided to outline the current assumptions on key areas - however as policy thinking develops these positions are subject to change.

#### Timing

We will seek to establish any new scheme as quickly as possible, however it is likely to take 12-18 months to develop. In the meantime, GPs should continue to ensure they have appropriate indemnity cover in line with GMC requirements to enable them to practise.

#### Scope

We envisage the scheme would provide clinical negligence cover to providers of GP services (e.g. GP contractors OOH providers of GP services) through which the activities of individual GPs would be covered. It would be available to all contractors who provide primary medical services: GMS, PMS and APMS plus any other integrated urgent care delivered through NHS Standard Contracts. The cover would include the activities of practice staff including other medical professionals working for the practice in the provision of these contracted services, and students/trainees working in this area.

Decisions have yet to be made about inclusion of doctors working in other public sector settings including prisons and the MOD. We are keen to work with GPs and their representatives, other providers of primary medical services and practice staff to develop the scheme and its scope so as to work best for general practice and their patients.

#### Costs

Our ambition is to deliver a more stable and more affordable indemnity system for general practice. We are at the early stages, and decisions about pricing or costs have still to be considered. The correct forum to discuss the cost of new GP indemnity arrangements is in the GP contract negotiations.

### Separate cover for non-NHS work

We envisage the scheme would only cover clinical negligence risks arising from the delivery of GMS/PMS/APMS contracts and any other integrated urgent care delivered through NHS Standard Contracts.

We do not envisage that a state-backed scheme would indemnify individuals against claims arising from other private, non-NHS activity. Individuals are also likely to want to continue private indemnity arrangements to provide help should they need it for private work, in coroners' cases, GMC hearings and other matters relating to professional regulation.

### Wales, Scotland and Northern Ireland

This announcement is about England. Health policy is a devolved matter, so the Devolved Administrations will make their own decisions about indemnity provision in their territories. The Department of Health has been engaging proactively and constructively with the Devolved Administrations on these proposals and will continue to do so as they develop.

### Other primary care professionals

Today's announcement is about general practice and the scheme is about clinical negligence indemnity cover for those services. We cannot say any more about other primary care professionals who work beyond NHS general practice services at this point.

### Medical Defence Organisations

The Medical Defence Organisations have been involved in the early discussions on the development of a new scheme and DH will continue to liaise with them to understand what impact the introduction of any new scheme may have, for GPs and other customers. We very much hope that they will continue to work closely with us going forwards.

### Running the new scheme

No decision has been taken on who will run the scheme yet.

### Next steps

We intend to continue to work with GPs, MDOs and other stakeholders to ensure that a sustainable and affordable system of indemnity is available, to protect both patients and providers from the consequences of clinical negligence and to meet the changing needs of the NHS.

The Department will set up a stakeholder group, and arrange a first roundtable next month with RCGP and BMA and other GP representatives to gather views from General Practice and agree how best to engage with the sector going forward.

## Existing support

NHS England has already committed to provide additional funding to GP practices to cover the estimated annual indemnity inflation for 2016/17 and 2017/18. NHS England has also announced additional money for indemnity cover over the coming winter.

## Addendum - 17 October 2017

On 12 October 2017, the Secretary of State for Health announced his intention, subject to the examination of relevant issues, to develop a state-backed scheme for general practice indemnity in England.

Following that announcement, the Department of Health notes the Medical Defence Union's (MDU's) intention to change their indemnity offer to GPs to claims-paid coverage, and thus reduce the cost of their cover, from 1 November 2017.

Claims-paid coverage is an alternative form of indemnity which requires policy holders to obtain run-off cover at the end of any period of coverage, since it only covers claims which are reported and settled during the period of the cover. This means that claims made and settled in the period up to the introduction of a state backed scheme while the policy remains in force should be honoured. Claims made after the cover has expired, or made before the expiry of the cover but not yet settled, will not be honoured, unless run-off cover is purchased at the end of the period.

This reduction in coverage will apply to any GP taking up the MDU's offer of membership at the reduced subscription cost (whether as a renewal or new membership taken out from 1 November 2017) or with any other organisation that offers indemnity for clinical negligence on a claims-paid basis.

The Government does not currently plan to include this run-off cover in a state-backed scheme. GPs with claims-paid or claims-made indemnity policies would therefore be required to purchase such cover separately themselves at the point they move to a state-backed scheme.

Any GP purchasing an indemnity product on a reduced cover basis should make themselves fully aware of the terms under which it is being offered, taking into consideration how they will cover themselves after the period of cover has expired and the cost of run-off cover.

GPs should also continue to ensure they have appropriate cover in line with the GMC professional regulatory requirements to enable them to practise.