

Professional indemnity arrangement

**A new requirement for
registration**

Professional indemnity arrangement: A new requirement for registration

Introduction

The UK governments introduced a new requirement for all healthcare professionals to hold an appropriate indemnity arrangement from 17 July 2014.

By law, nurses, midwives and nursing associates must have in place an appropriate indemnity arrangement in order to practise and provide care. While the arrangement does not need to be held by the individual, it is their responsibility to ensure that appropriate cover is in force.

Summary

When you practise as a nurse, midwife or nursing associate you must have an appropriate indemnity arrangement in place. The large majority of nurses, midwives and nursing associates will already meet the new requirement and will not need to take any further action. You meet the requirements where:

- you work exclusively for the NHS, as you will already have an appropriate indemnity arrangement;
- you work in an employed environment in the independent sector where your employer provides you with indemnity cover; or
- you undertake self-employed work and have made your own professional indemnity arrangements.

If you are an employee in the NHS or independent sector, the employer will normally have indemnity arrangements that will cover your work.

However, if you are self-employed you will need your own cover. This may be:

- as part of a membership of a professional body or trade union;
- directly from a commercial provider; or
- a combination of the above.

How will the requirement affect you?

The purpose of this requirement is to make sure that where patients have suffered harm through the negligent action of a nurse, midwife or nursing associate, they will be able to recover any compensation to which they are entitled following a successful claim.

You need to declare that you have in place, or you will have in place when you practise, an appropriate indemnity arrangement.

You will be required to complete this declaration at the following points, as appropriate:

- When you apply for registration with the NMC for the first time.
- Each time you renew your registration.
- If your registration has lapsed and you want to apply for readmission to the register.
- If you are applying for restoration to the register after having been struck-off for fitness to practise reasons.

What is 'appropriate' cover?

Appropriate cover is an indemnity arrangement which is appropriate to your role and scope of practice and its risks. The cover must be intended to be sufficient to meet an award of damages if a successful claim is made against you.

Determining what appropriate cover is for you will be influenced by:

- what your job involves and where you work;
- who you provide care to and the level of care you provide; and
- the risks involved with your practice.

We are unable to advise you about the level of cover that you need. We consider that you are in the best position to determine, with your indemnity provider, what level of cover is appropriate for your practice. You should seek advice as appropriate from your professional body, trade union or insurer to inform your decision. You need to be able to demonstrate that you fully disclosed your scope of practice and to justify your decisions if asked to do so.

If you have made your own professional indemnity arrangements, you should make sure that you understand how your cover will work. For example, most indemnity insurance will be offered on a 'claims made' basis. This means the cover would need to be in place both when the event causing the claim occurred and when the claim was made (which may be years later). This also includes understanding any requirements to disclose relevant information to your indemnity provider which would influence a provider's decision whether or not to offer cover.

If your circumstances change while you are registered with the NMC, you must ensure that your indemnity arrangements are still appropriate for the risks of your practice.

If you are employed

If you work for the NHS, you will already have an appropriate indemnity arrangement. The NHS insures its employees for work carried out on their behalf, which means you will be covered if a claim is made against you in that employment and is successful.

If you are employed in private healthcare (for example, a nursing home or general practice), it is likely that your employer will have an appropriate indemnity arrangement for you.

Outside the NHS, many employers are likely to have professional indemnity arrangements which will provide appropriate cover for all the relevant risks related to your job.

Arrangements may vary between employers so you should always check with them.

If you are self employed

If you are self-employed, work as a consultant or through an agency, you are likely to need to have your own indemnity arrangement in place. Professional bodies may offer professional indemnity insurance, or you can arrange your own cover directly through a commercial provider. It is important that you understand the terms of your insurance policy.

If you have a combination of self-employed and employed work

If you undertake a combination of employed and self-employed work, or work for more than one employer, you must have an appropriate indemnity arrangement in place for each area of your practice. An employer's arrangement will only provide cover for activities performed by an employee as part of their duties during that employment.

If you work in education

If you are a nurse, midwife or nursing associate and are employed in education it is likely that your employer will have an appropriate indemnity arrangement for you. Arrangements may vary between employers and so you should always check with them. You need to ensure that your indemnity arrangement provides cover for all aspects of your role, particularly if it includes fulfilling aspects of your role in the practice setting (for example, practice placement based teaching or providing support for learning and assessment in practice settings). An indemnity arrangement may normally be provided by your employer, placement provider or through your own arrangements.

If you have a break in practice

If you decide to take a break from practising, you do not need to let us know. As long as you are covered when you practise, you can continue to be registered with us. This includes breaks for maternity leave, travelling or a break in employment.

Voluntary work

You are required to be registered with us if you undertake voluntary work where you are practising as a nurse, midwife or nursing associate. Indemnity cover for voluntary work may be provided by some voluntary organisations or your existing indemnity arrangement. However, if you are unsure, you should ask the organisation you are volunteering for or raise the issue with your insurance provider.

Good Samaritan acts

The NMC does not regard 'Good Samaritan' acts, where someone provides first aid or other emergency assistance to an individual where there is no legal duty to do so, as professional practice for which indemnity insurance is required.

Good neighbour acts

Good neighbour acts (such as helping out in your professional capacity within your local community) are less clear cut and you should use your professional judgement to determine whether you need indemnity cover in such situations. While single, unpaid acts are unlikely to be classed as carrying out work as a nurse, midwife or nursing associate, repeated acts over a sustained period may, even if they are unpaid, require appropriate cover. If you are worried about any potential liabilities as a result of such acts, you should check with your professional body, trade union or insurer whether you have or need cover for such acts.

Evidence of cover

You are responsible for maintaining your registration with us. When you first register or you renew your registration with us, we ask you to sign a number of self-declarations confirming you meet the standards for registration with us. These now include holding appropriate indemnity insurance. By signing these declarations you are stating that you meet the conditions of registration, and that you will continue to do so during the period you are registered.

You must have an appropriate indemnity arrangement in place from July 2014, regardless of when you sign your declaration. If you practise without cover after this time you will be breaking the law, even though you may only have to sign the declaration when you renew your registration.

If you are self-employed or undertake consultation work, it is important that you maintain a record of your cover, or are able to obtain a record of your cover quickly.

You are not required to provide a copy of your documents for your indemnity arrangement when you self-declare. However, maintaining good records of your indemnity arrangement and the disclosure of your scope of practice, which forms the basis of your arrangement, is important and is reflected in the Code. We may undertake compliance checks.

If you are unable to complete the self-declaration you will be unable to apply for registration, renew your registration or apply for readmission or restoration to the register.

If your indemnity arrangement is no longer appropriate for your scope of practice, and you no longer meet our registration requirements, you must inform us immediately by contacting our registration department.

The new requirement and fitness to practise

Our fitness to practise process is the way in which we can consider concerns about nurses, midwives or nursing associates. We will consider taking fitness to practise action under circumstances including:

- making a false declaration that you have professional indemnity cover in place;
- practising while having an indemnity arrangement that is not appropriate for your practice; and
- cancelling your indemnity cover after registration or renewal and failing to put alternative cover in place while still practising.

More information

If you have any questions, please contact us, although we cannot offer advice on what level of indemnity cover is appropriate for you. You can contact us at:

Nursing and Midwifery Council
23 Portland Place
London
W1B 1PZ
Tel +44 (0)20 7333 9333