

**THE HEALTH, SOCIAL CARE & SPORT COMMITTEE OF THE
WELSH ASSEMBLY**

EVIDENCE SUBMISSION

FROM THE MEDICAL PROTECTION SOCIETY (MPS)

The National Health Service (Indemnities) (Wales) Bill

Stage 1 Scrutiny

18 October 2019

Opening remarks

1. The Medical Protection Society (MPS) welcomes this opportunity to make a brief submission to the Health, Social Care and Sport Committee of the Welsh Assembly – as it scrutinises the National Health Service (Indemnities) (Wales) Bill.
2. MPS welcomes the introduction of this Bill and considers it to be both a necessary and important piece of legislation.

About MPS

3. MPS is the world's leading protection organisation for doctors, dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Membership provides access to expert advice and support together with the right to request indemnity for complaints or claims arising from professional practice.
4. Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This can include clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.
5. Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations.
6. We are not an insurance company. All the benefits of membership of are discretionary as set out in the Memorandum of Articles of Association.

The legislation

7. As at paragraph 2, we believe this legislation is both necessary and important.
8. The Welsh Government introduced the General Medical Practice Indemnity (GMPI) earlier this year, which is responsible for claims arising out of NHS contracted work carried out by General Practitioners (GPs) - and other health professionals working in general practice in Wales - for adverse incidents that occurred on or after 1 April 2019.
9. Prior to the inception of the GMPI, GPs and other healthcare professionals in general practice in Wales had to make their own indemnity or insurance arrangements for this work. The vast majority of GPs did so through their membership of MPS or one of the other two medical defence organisations (MDOs).
10. Alongside the GMPI, the Welsh Government intends to create an Existing Liability Scheme (ELS). This would mean that the Welsh Government would also assume responsibility for all existing claims against GPs, as well as claims that are brought in the future, where the adverse incident date was before 1 April 2019 and related to treatment under an NHS contract. This would bring GPs in Wales into line with their hospital colleagues.
11. The legislation before the Committee is essential to the delivery of an ELS for GPs in Wales, and it accordingly amends s30 of the National Health Service (Wales) Act 2006 to grant Ministers the requisite powers.
12. It is important that the profession has clarity on their indemnity arrangements, and this Bill is an important component of achieving that clarity.
13. A similar ELS scheme has existed in England since April 2019. MPS were the first MDO to successfully reach agreement with the UK Government over an ELS for general practice members in England. As a result, the UK Government will assume responsibility for all existing claims against MPS general practice members in England, as well as claims that are brought in the future where the adverse incident date was before 1 April 2019 and related to treatment under an NHS contract. This means that these MPS members will be able to turn to a state-backed scheme for help no matter when in the future they become aware of a claim, or how much that claim eventually settles for.
14. We are eager for GP members in Wales to have parity with their English colleagues, and for this to be achieved as soon as possible. The passage of this legislation is essential for that to be achieved.
15. MPS is in advanced negotiations with the Welsh Government regarding the transfer of assets to an ELS scheme.
16. We are committed to ensuring a smooth transition to any new ELS scheme. When an ELS scheme was established in England, MPS reached an agreement with the UK Government which consists of us continuing to manage existing claims for an interim period. We would be keen to replicate this transitional arrangement with the Welsh Government.

17. Our members are at the heart of everything we do, and our driving priority is securing a positive outcome for GPs in Wales. No matter when in the future they become aware of a clinical negligence claim against them, we think the best outcome for them would be to be able turn to a Government backed scheme for assistance.
18. MPS will continue to play a vital role on behalf of our GP members – protecting their reputations by offering medicolegal advice and assistance for General Medical Council (GMC) proceedings, complaints, coroners' inquests, disciplinary matters, criminal investigations and all other issues arising out of their professional practice. Members who add Claims Protection to their membership will also have the right to request indemnity for clinical negligence claims arising from any fee-paying or private work.

Conclusion

19. MPS commends this Bill to the Committee. We offer the legislation our full support and trust that it will successfully complete all its scrutiny stages in the Assembly.
20. Should the Committee have any further questions for MPS, or require further information, then we are at their disposal.