

Guidance on professional indemnity and insurance cover

Dental professionals must have appropriate indemnity or insurance cover in place

It is important that patients can obtain compensation if something goes wrong. This is why it is a legal requirement that all dental professionals must have appropriate indemnity or insurance cover in place by the time they start practising. Appropriate cover is cover that will, in the event of a successful claim, compensate a patient who suffers harm. You should be covered across your entire scope of practice. Further support or advice about appropriate cover for you should be sought directly from an independent adviser.

In order to meet their obligations to their patients, it is the responsibility of every dental professional to ensure they hold appropriate cover. It is also the responsibility of individual dental professionals to disclose all relevant matters at the time of taking out cover, to comply with the terms and conditions of their cover and to cooperate with claims management processes.

Choosing your indemnity or insurance cover

We strongly recommend that dental professionals consider the benefits and drawbacks of the different types and combinations of cover available to them.

This might include the level of support providers offer dental professionals, beyond ensuring that liabilities to patients are covered, should something go wrong, and the residual risk associated with each model of indemnity and insurance in terms of paying out in the event of a successful claim. There is no definitive checklist of areas you need to ensure cover for, as your indemnity or insurance cover should be tailored to your specific practice and needs.

Ensuring that your patients can seek compensation

The type of cover you choose may be a policy of insurance, an indemnity arrangement, or a combination of the two. Regardless of whether you have your own personal savings or investments, you must still have indemnity or insurance arrangements in place to cover any claims.

Your cover must ensure patients can be compensated in the event of a successful claim. You must regularly review your cover to ensure that it applies across all the tasks and types of practice that you do, the locations where you work and for the hours you work, so that patients are adequately protected. If you're working in another country as well as the UK, you will need to comply with the requirements set out in this guidance as well as any requirements for the country you are working in. Additionally, products may have jurisdictional limits and you should not rely on cover obtained by providers who are based outside the UK for your practice here, or assume that your UK policy will cover you for any work undertaken abroad.

Making a declaration and providing details of your cover to the GDC

When you register, renew, or restore your registration as a dental professional you will be asked to declare that you have, or will have, cover in place before you start working as a dental professional. You will usually only be required to make the declaration at these points, however the GDC has the right to request further information regarding your cover at any time. It is routine practice for the GDC to require you to provide details of your cover if you are subject to a fitness to practise investigation.

Types of cover

You should consider your situation and use your judgement to decide what type of cover is best for you, as long as it allows for a patient to receive compensation for any loss or harm they suffer. Speak to an adviser, your employer, or your professional association for guidance on the level of cover you may need.

Personal cover

There are a range of personal indemnity and insurance products available in the UK. Personal cover is when the policy is in your name, rather than that of your employer or the NHS. You can obtain personal cover from indemnifiers or insurance providers, and some professional associations may offer cover from a third-party organisation as part of your membership.

The cover available may vary across individual indemnifiers and insurance companies. Below are some examples of what indemnifiers and insurance companies typically provide, however this may not be the case for all providers, as some may offer a wider range of products.

- Indemnifiers typically offer cover on an occurrence basis, based on your relationship with them at the time when the event occurred. This means that if you were a member at the time of the adverse incident you can apply for assistance at any time, even if you're no longer a member.
- Commercial insurance products typically provide a specified level of cover for specific circumstances, on a claims-made basis. Claims-made policies typically only cover claims that arise when the policy is active. This means that you will normally need to take out run-off cover for any future claims made after your policy has expired. Claims made products often include requirements for policy holders to notify the provider of incidents that might lead to a claim, and it is important to be aware of these.

No matter what type of policy you hold, you must comply with the terms and conditions of your cover. It is your responsibility as a registered dental professional to make sure that your actions or inactions do not invalidate the cover in place. Failure to comply with the terms and conditions of your policy may mean that patients are not able to receive compensation.

If you are an employer or a practice principal, you may wish to consider whether your policy adequately covers you in event of a claim. In addition to your personal liabilities, you may be subject to a non-delegable duty of care to patients treated at your practice by your employees, trainees, or associates. This could also mean that you are vicariously liable in the event of a claim made against those who work at your practice.

Employer-based schemes

Your employer may have a policy which provides you with cover, but it is your responsibility to make sure you are covered for all the tasks that you do, the locations where you work and the hours that you work. Make sure you ask your employer for a copy of the policy and keep it for your records. Do not assume that you're covered.

Most important of all, the employer policy must provide cover which protects patients in the event of a successful claim, so check what your employer's policy specifically covers. It may not provide you with cover in the event of a fitness to practise investigation, so you would need to take out additional cover if you wish to have this type of support.

Professional indemnity or insurance cover is different from, and will not be provided by, employers' liability insurance or public liability insurance.

NHS or 'Crown' indemnity

If you are directly employed by the NHS in England, Scotland, or Wales, or Health and Social Care (HSC) Northern Ireland, it is likely that your indemnity cover will be provided through a clinical negligence scheme.

There are, however, some important limitations in this type of cover, as it does not apply to all areas of practice. You will only be covered for the work you do under the terms of your NHS or HSC employment, so you will not be covered for any private practice, and you may not be covered for the delivery of NHS dental care in primary care dental practice.

It is your responsibility to ensure that you have cover for all areas of your practice in all settings and you should ensure that you have additional cover if any of your work falls outside the scope of the NHS or Crown indemnity. These schemes do not provide you with cover in the event of a fitness to practise investigation, so you would need to take out additional cover if you wish to have this type of support.

When indemnity or insurance is not required

Only a very small number of dental professionals do not require any indemnity or insurance.

You need cover unless you work exclusively in roles which do not involve the practice of dentistry and you have no patient interactions within these roles. Where you have indirect interactions with patients, such as providing clinical supervision to students, fitting dental devices as part of a team, or within a dental public health role, you will require cover.

There is no legal requirement for pre-registration students and trainee dental professionals to have personal indemnity or insurance cover. However, if you are responsible for students and trainees who see patients you must ensure that appropriate cover is in place.

If you are a dental technician who has no direct contact with patients you may be covered by workplace policies, such as product liability insurance. However, such policies may not cover you in the case of a fitness to practise investigation or for any activities where you see patients such as device repairs or as part of a team delivering direct care to patients.

If you retire, or you work only in roles that do not require cover, take a break from practising, or switch indemnity or insurance providers, you will still need to make sure that you have appropriate cover for your past practising roles. If your policy was a claims-made policy, you must ensure that you secure appropriate 'run-off' cover. This is to enable patients to be compensated against events which occurred while you were still practising under a previous policy, including when some years have passed.

If your circumstances change, and you resume clinical work and the provision of services to patients, you will need to secure appropriate cover.

Meeting your professional responsibilities

Making sure patients are protected and compensated (when appropriate) is key to ensuring that trust in the dental professions is maintained. As a dental professional, **you must:**

- ✓ Get your own cover unless you are certain that all aspects of your practice are covered by an arrangement made by your employer.
- ✓ Make sure you understand the scope and limitations of coverage provided by your employer.
- ✓ Check that your cover is up to date and provides cover for all the tasks that you do, and areas of practice that you work in including the locations where you work and the hours you work.
- ✓ Ensure you have the correct cover in place at the point you make changes to your practice.
- ✓ Comply with the terms and conditions of the policies you hold, including any claims management processes.
- ✓ If you do not have appropriate indemnity or insurance in place for the work you are doing - stop practising.
- ✓ Cooperate with patients, their legal representatives, and your indemnity or insurance provider in the event of a claim.

Questions to consider when arranging your cover

1. Will this product ensure that I can meet any liabilities to patients following a successful claim? If not, what alternative or additional products might I need to meet my obligations to patients?
2. Will this product cover me for all the tasks that I do, the locations where I work and the hours I work?
3. What are the financial or other limits of this product?
4. Is the level of financial cover sufficient in relation to the risks related to my individual professional practice?
5. Is the product occurrence-based or claims-made cover? If a claim is made after the policy has expired, will the patient still be able to receive compensation if the claim is successful?
6. What assistance is provided in disciplinary or fitness to practise proceedings or other non-claims matters?
7. Does the product give me peace of mind that my personal financial liability is protected?
8. What terms and conditions must be adhered to? Am I confident that I can and will comply with these?
9. What do I do if my circumstances change (e.g. changes to my scope of practice, taking on new tasks, change in working hours, change to a non-clinical role)?
10. Does the provider offer support and advice services, including legal advice and wellbeing support, as part of this cover?
11. If I am responsible for students or trainees, will this product provide me with appropriate cover?
12. If I employ dental professionals or own a dental practice, does my policy cover any non-delegable duty of care or vicarious liability?

Legal basis for guidance

The requirement to hold indemnity cover is set by s26A of the Dentists Act for dentists and by s36L for dental care professionals (though the requirement is identical for both groups). The requirement to provide evidence of cover to the GDC is set out in the General Dental Council (Indemnity Arrangements) (Dentists and Dental Care Professionals) Rules Order of Council 2015.

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