

Health Care and Associated Professions (Indemnity Arrangements) Order 2013

Consultation Questions

Please indicate all the countries to which your comments relate:

UK-wide *and/or*
England **Northern Ireland**
Scotland **Wales**

Are you responding:

- *as a member of the public*
- *as a health or social care professional*
- *on behalf of an organisation*

If you are responding as a health or social care professional, please supply the following details:

Profession:

Country of qualification Please indicate as appropriate:

UK Other EEA Rest of World

Area of work

| | | | | | |
|------------|--------------------------|-----------------------------|--------------------------|-------------------|--------------------------|
| NHS | <input type="checkbox"/> | Social Care | <input type="checkbox"/> | Private Health | <input type="checkbox"/> |
| Voluntary | <input type="checkbox"/> | Regulatory Body | <input type="checkbox"/> | Professional Body | <input type="checkbox"/> |
| Education | <input type="checkbox"/> | Union | <input type="checkbox"/> | Local Authority | <input type="checkbox"/> |
| Trade Body | <input type="checkbox"/> | Other (please give details) | | | |

If you are responding on behalf of an organisation, please supply the following details:

| | | | | | |
|------------|--------------------------|-----------------------------|--------------------------|-------------------|-------------------------------------|
| NHS | <input type="checkbox"/> | Social Care | <input type="checkbox"/> | Private Health | <input type="checkbox"/> |
| Voluntary | <input type="checkbox"/> | Regulatory Body | <input type="checkbox"/> | Professional Body | <input checked="" type="checkbox"/> |
| Education | <input type="checkbox"/> | Union | <input type="checkbox"/> | Local Authority | <input type="checkbox"/> |
| Trade Body | <input type="checkbox"/> | Other (please give details) | <input type="text"/> | | |

Please indicate whether your comments refer to requirements to be introduced generally, or to a particular healthcare professional regulatory body or bodies

| | | | | | |
|-----------|-------------------------------------|------|--------------------------|------|--------------------------|
| Generally | <input checked="" type="checkbox"/> | GCC | <input type="checkbox"/> | GDC | <input type="checkbox"/> |
| GMC | <input type="checkbox"/> | GOC | <input type="checkbox"/> | GOsC | <input type="checkbox"/> |
| GPhC | <input type="checkbox"/> | HCPC | <input type="checkbox"/> | NMC | <input type="checkbox"/> |

Health Care and Associated Professions (Indemnity Arrangements) Order 2013

Consultation Questions

Q1: Do you agree that the requirement for healthcare professionals to have an indemnity arrangement in place should match the requirements set out in the Directive and place an obligation on healthcare professionals themselves to ensure that any indemnity arrangement in place is appropriate to their duties, scope of practise, and to the nature and the extent of the risk?

Agree **Disagree** **Unsure**

Please set out your reasons in your response.

Comments

The requirement would give greater patient confidence that funds would be available for adequate compensation in the event of mistreatment or harm.

Healthcare professionals should have appropriate indemnity in place, to ensure they can function as independent autonomous practitioners. However, this does not abrogate the responsibility of employers. However there is concern over the definition of responsibility and cover; it is recognised that individuals may be placed in a cover if need to take on a new task/emergency situation that could prompt a “cannot do that as not insured” response. This begs the question as to whether there needs to be an exclusion for “good Samaritan” acts by a professional acting outside the scope of their indemnity in emergency situations.

Q2: Do you agree with the proposed definition of an indemnity arrangement?

Agree **Disagree** **Unsure**

Please set out your reasons in your response.

Comments

The definition as it stands lacks sufficient clarity. It should make clearer the difference between insurance and an indemnity arrangement and the advantages/disadvantages of both.

Q3: Do you agree with the proposed provisions that set out:

(a) What information needs to be provided by healthcare professionals, and when, in relation to the indemnity arrangement they have in place;

Agree (x) **Disagree** () **Unsure** ()

(b) The requirement to inform the Regulator when cover ceases;

Agree (x) **Disagree** () **Unsure** ()

(c) The requirement for healthcare professionals to inform their regulatory body if their indemnity arrangement is one provided by an employer?

Agree (x) **Disagree** () **Unsure** ()

Please set out your reasons in your response.

Comments

It could be a requirement at the point of revalidation/renewal of registration to also confirm the continuation of indemnity/insurance.

Q4: Do you agree with the proposal to allow healthcare professional regulatory bodies the ability to refuse to allow a healthcare professional to join, remain on, or return to, their register, or, for the GMC, to hold a licence to practise unless they have an indemnity arrangement in place?

Agree () **Disagree** (X) **Unsure** (x)

Please set out your reasons in your response.

Comments

The proposal does not accommodate the situation of individuals graduating from an integrated degree course (ie with an integral clinical placement) eligible for registration before securing employment. The resultant catch 22 is an inability to register in the absence of indemnity through an employer and an inability to apply for a registered practitioner post without registration. This case would apply to many graduate biomedical scientists seeking employment in an already challenging job market.

There will need to be a mechanism to deal with a situation where an indemnity provider will only provide cover once an applicant is regulated and the requirement to have cover to be regulated

A solution could be to be able to register but flag as uninsured/indemnified, non-practising and then move to “active” when confirmed.

Q5: Do you agree with the proposal to permit healthcare professional regulatory bodies to remove a healthcare professional from their register, withdraw their license to practise, or take fitness to practise action against them, in the event of there being an inadequate indemnity arrangement in place?

Agree () **Disagree** () **Unsure** (x)

Please set out your reasons in your response.

Comments

Not in the first instance. No guidance is provided on what constitutes an adequate level of cover, which could lead to very restricted/inflexible service for self-employed practitioners or those who, for whatever reason, are not covered by an employer indemnity scheme.

Some registered practitioners work in non-patient facing activities, particularly those practicing independently may find obtaining tailored cover difficult and disproportionately costly

Q6: Please provide any information with regard to the potential barriers to independent midwives moving to alternative governance and delivery practices in order to obtain appropriate indemnity arrangements.

Comments

Question not applicable to the Institute of Biomedical Science.

Q7: Do you agree that the provisions in the Draft order should only apply to qualified healthcare professionals and not students?

Agree **Disagree** **Unsure**

Please set out your reasons in your response.

Comments

Students should be acting under supervision of a regulated practitioner.

Q8: Are there any equalities issues that would result from the implementation of the Draft Order which require consideration? If so, please provide evidence of the issue and the potential impact on people sharing the protected characteristics covered by the Equality Act 2010: disability; race; age; sex; gender reassignment; religion & belief; pregnancy and maternity and sexual orientation and carers (by association).

Agree **Disagree** **Unsure**

Comments

None requiring consideration

Q9: Please provide comments as to the accuracy of the costs and benefits assessment of the proposed changes as set out in the Impact Assessment (including, if possible, the provision of data to support your comments).

Comments

Insufficient information available to make comment.

Q10: Please provide information on the numbers of self employed registered healthcare professionals and whether they are in possession of indemnity cover or business insurance which includes public liability insurance and professional indemnity insurance.

Comments

The Institute of Biomedical Science is not aware of any self-employed biomedical scientists. Locum biomedical scientists are usually covered through the agency from which they are recruited.

Q11: Please provide information on the numbers of employed healthcare professionals who, in addition to working in an employed capacity covered by an employer's arrangement for indemnity or insurance, undertake self-employed practice. Where possible, please provide information as to whether they are in possession of indemnity cover or business insurance which includes public liability insurance and professional indemnity insurance for that self-employed element of their practice.

Comments

Not known.

Q12: Do you have views or evidence as to the likely effect on costs or the administrative burden of the proposed changes set out in the Draft Order?

Agree () Disagree () Unsure (x)

Please provide information/examples in support of your comments.

Comments

There could be a significant initial burden on employers to provide written confirmation of indemnity/insurance cover to each named registered employee, if not already explicitly stated in the contract of employment, to submit to their respective regulators as evidence.

Registrants with multiple employers would need to provide, and regulators to note, multiple instance of evidence of indemnity cover

Subsequently this could be reaffirmed through the registration renewal process with no additional costs associated to the registrant or employer.

Q13: Do you think there are any benefits or drawbacks that are not already discussed relating to the proposed changes?
Please provide information/examples in support of your comments.

Agree **Disagree** **Unsure**

Comments

Increased financial cost to the self-employed registrants is a drawback. Also independent practitioners and employers may be reluctant to supervise students as this could result in an increase in indemnity premiums and administration.

From a patient perspective, this could encourage restrictive practice and 'over-testing'.

Q14: Do you have any comments on the draft order itself?

Yes **No**

Comments

Q15: What are your views on extending the requirement to hold an indemnity arrangement as a condition of registration to all professionals statutorily regulated by the Health and Care Professions Council? This would cover Social Workers in England only.

Agree **Disagree** **Unsure**

Comments

A standardised approach would be preferable, if appropriate.