

# UNISON'S PROFESSIONAL INDEMNITY

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Cover for health workers

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Updated March 2020

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## UNISON's professional indemnity

As part of your membership of UNISON we offer our members who deliver health care and are part of the health service group professional indemnity insurance which is a legal requirement if you are on a professional register.

The cover offered is what is known as a 'contingent' policy which means that members **must first and foremost be indemnified by the organisation they work for** (under what is known as a 'frontline' cover). In simple terms this means that in order for you to be covered by UNISON's policy, your employer must provide cover for you.

## Then why do I need UNISON's cover?

Although you should ensure you are covered by the organisation that you work for (your organisation is, generally, legally responsible for your actions - this is known as vicarious liability and they should have insurance in place to cover that liability) UNISON's cover is for the rare occasion where that frontline insurance fails.

## When am I covered?

### If you work for the NHS

If you work for the NHS, you will already have an appropriate indemnity arrangement. The NHS insures its employees for work carried out on its behalf. This means that you will be covered if a claim is made against you in an NHS role, i.e. the NHS cover acts as your 'frontline' cover. You are therefore covered by UNISON's professional indemnity cover. This includes members who work for an agency or who are self employed working wholly within the NHS.

For more information, please see the **Q&As on professional indemnity insurance from NHS Employers** (attached as Appendix A)

### If you work in a GP practice

A new state backed indemnity scheme was introduced from 1 April 2019: the Clinical Negligence Scheme for General Practice (CNSGP). Staff working in a GP's practice or providing GP services to NHS patients will be covered. This will include

nurses and other practice staff, students and trainees. However, **you should check that the organisation that you work for and the role you carry out are covered**, not only because this is a new scheme but also because this scheme will only respond to any alleged malpractice that occurs after 1 April 2019.

### **If you work in private healthcare/agency work outside the NHS**

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

This will provide appropriate cover for all the relevant risks related to your job.

Arrangements may vary between employers so **you need to check and get written confirmation that the appropriate frontline cover is in place.**

It is essential when you do not work for an NHS body, for example when you work for an agency or private run facility such as a nursing home, that the organisation you work for

provides professional indemnity cover for you. We recommend that you ask them to do so and, if they refuse, they need to explain why they don't think you need it.

Just so you are clear, you cannot use your UNISON membership as proof of having professional indemnity insurance in place (as you cannot rely on the existence of our 'contingent' policy when there is no 'frontline' policy). UNISON's position, in this situation, is that we would expect the organisation that you work for to agree to arrange professional indemnity cover on your behalf at their expense.

However, if they still will not provide professional indemnity cover for you, you (or your agency) will need to arrange your own professional indemnity insurance and you will need to provide your agency with proof when it is you that has done this.

### **If you are self-employed**

If you are self-employed or an independent contractor, working on your own and taking responsibility for your own actions - for example where you are genuinely acting and

practising independently on a fee-for-service basis – you have no employer who has a duty of care and is vicariously liable for your actions.

If this is the case for you, you will need to arrange your own cover because although UNISON's cover is very comprehensive our insurers have not agreed to extend cover to this group of workers.

### **If you are a student**

Healthcare professional students are covered, where you are a student working on a placement under the supervision of a NHS employer you are covered by NHS Indemnity.

### **If you are a volunteer**

The charity or other organisation organising the volunteering must provide its own indemnity insurance for health professionals acting in voluntary roles in order for UNISON's contingent insurance to apply. If it does not you will not be covered by UNISON's insurance.

If the provider of the volunteering opportunity – the charity or NGO - takes out their

own frontline cover for you then you will be covered by UNISON's insurance; **you will need to check and get written confirmation that the appropriate frontline cover is in place.**

If the provider of the volunteering opportunity does not take out their own cover you should arrange your own insurance, in the same way you would if you were self-employed.

### **If you act as a 'Good Samaritan'**

UNISON's cover extends to instances where healthcare professionals employed by the NHS are called upon to provide emergency care (a Good Samaritan act) outside their normal working hours, as long as they can demonstrate they were acting within their competence and were aware of their own personal safety, even though Good Samaritan acts are not generally regarded as professional practice for which indemnity insurance is required.

For members who are not employed by the NHS including those covered by the Clinical Negligence Scheme for

General Practice, UNISON's cover for Good Samaritan acts is contingent on them having separate frontline cover that makes provision for Good Samaritan acts.

### **Is there a limit to UNISON's indemnity?**

Yes, there is a limit of £1,000,000 per annum in any one year per policy (there is one policy for NHS members and another policy for non NHS members).

### **Why has UNISON set its cover at this level?**

Any increase in the cover we provide, would increase the possibility of a malpractice claim against the individual employee and would undermine the responsibilities of employers. Therefore we believe we have set our cover at the right level (ie on a contingent basis at the limits referred to above).

### **Am I covered if I work overseas?**

Yes, with the exception of any work carried out in the USA (including Protectorates) and Canada.

### **Are there any other exemptions to UNISON's cover?**

Yes. The following groups are exempt from UNISON's cover:

- Midwives working outside the NHS
- Medical practitioners
- Expert witnesses
- Self employed independent practitioners and individuals working on a fee for service basis
- Beauty treatments or medico legal work (other than those employed by the NHS)
- All claims relating to transmission of hepatitis non A (outside the NHS).

Please note UNISON did not wish to exclude these groups. The decision to exclude these groups was taken at the instruction of its underwriters.

Despite these exclusions this is the most comprehensive professional indemnity cover package UNISON has provided for its health care members since its formation in 1993.

## Are you able to provide a letter confirming my membership?

Your regional office can supply you with a letter confirming your membership. Your branch will be able to give you the contact details for your regional office. You can find out your branch using the branchfinder :

<https://branches.unison.org.uk/branch/>

or you can call UNISON direct: 0800 0 857 857.

However, if you are asking for proof of membership in relation to indemnity insurance, as stressed throughout this document, UNISON's policy is a 'contingent' policy (see section entitled UNISON's professional indemnity) so unless there is frontline cover in place, our policy cannot be used as a fall back. **It is your responsibility to check and get written confirmation that the appropriate frontline cover is in place.**

Also note that UNISON's cover **CANNOT** be used for revalidation purposes.

## And finally...

Like any insurance policy,

our contingent cover is subject to detailed terms and conditions that would need to be considered in the event of a claim being made. You must contact us immediately in the event that a claim is made or threatened, or even if you are only aware of circumstances which might result in you needing to call upon our policy at some point in the future. You should contact the health team initially: [health@unison.co.uk](mailto:health@unison.co.uk)



## **Requirement to have professional indemnity insurance FAQs (advice from 2014)**

### **Introduction**

Later this year it will be a legal requirement for all regulated healthcare professionals to have in place an indemnity or insurance arrangement.

The NHS Employers organisation has worked with unions and professional bodies to develop this FAQ's document for information.

### **Question 1**

I work in the NHS as a regulated healthcare professional (doctors, nurses, midwives, physiotherapists etc), what will this mean to me?

### **Answer**

By the nature of your employment with the NHS you are fully covered for the

practice you do as part of your employment. Regulated Health Professionals will be asked by their regulator on first registration or re-registration to tick a box confirming that they have indemnity cover.

This will also apply to those employed through an agency to work within the NHS.

### **Question 2**

I am employed by a GP practice.

### **Answer**

You should be covered by your employer. System regulators (CQC etc.) expect all employers to acknowledge their vicarious liability\* for the actions of their employees and make their own appropriate insurance arrangements.

If you are uncertain ask your employer about their insurance cover.

\* vicarious liability ensures that all those who have suffered harm secure compensation from a financially secure enterprise, rather than relying on the finances of the individual who has carried out any wrong doing.

### **Question 3**

I am a student about to register with my professional regulator but don't have a job yet.

#### **Answer**

You will be able to tick the self declaration or complete a self declaration form stating that as and when you are practising you will have insurance by virtue of your employment.

### **Question 4**

I'm currently not working/on maternity leave or on a career break.

#### **Answer**

You will be able to renew your registration but you do not require insurance as you are not practising. You will be able to tick the self declaration or complete a self declaration form stating that as and when you are practising you will have insurance by virtue of your employment.

### **Question 5**

I'm currently practising outside the UK.

#### **Answer**

You will still need to make the

declaration because you will be declaring that you either have insurance or indemnity in place or you will do when you begin practising in the UK. However if you are a practising within the EU you will also be required by the member state to have your own insurance or indemnity arrangement.

### **Question 6**

I'm self employed.

#### **Answer**

You will need to find insurance that is appropriate for the type and scope of your practice. Contact your professional regulator for more information.

### **Question 7**

What if I do some practice outside of my employment?

#### **Answer**

If you practice outside of your employment with the NHS it is your responsibility to ensure that you have an appropriate indemnity arrangement in place. This may be through your non-NHS employer, your professional regulator or private cover that you have arranged. If you are in any doubt contact

your professional regulator for advice.

### **Question 8**

What about Samaritan acts?

#### **Answer**

Good Samaritan acts are not generally regarded as professional practice for which indemnity insurance is required.

### **Question 9**

Will my professional regulator need to know if I change jobs?

#### **Answer**

It is up to each individual to take responsibility for having an appropriate indemnity arrangement in place. Individuals should seek advice from their professional regulator on what information you are required to provide.

## Three simple ways to join UNISON today and get essential cover wherever you work



Join online at  
[joinunison.org](https://joinunison.org)



Call us on  
**0800 171 2193**



Ask your UNISON rep  
for an application form