



DEBATE PACK

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Cost of GP Indemnity in England

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Summary

The debate, entitled “Cost of GP Indemnity in England” and sponsored by Alex Chalk, will take place in Westminster Hall on Wednesday 15 March at 2.30pm.

In recent years, a key concern among general practitioners in England has been the rising cost of indemnity against clinical negligence. Many GPs feel that the above-inflation rises in the amount they are required to pay for indemnity are unsustainable. In particular, concerns have been raised about this discouraging GPs from taking on certain forms of work, such as out of hours care.

In May 2016, NHS England and the Department of Health established a GP Indemnity Review group with the objective of addressing the rising cost of indemnity for GPs. This Review investigated the causes for the rise in indemnity costs and proposed certain long and short term solutions, and a report was published in [July 2016](#). Two immediate short term solutions of note from the Review are

1. A new GP Indemnity support scheme established in 2016/17 which will run for two years.
2. A winter indemnity scheme, first established in December 2015 which reimbursed the indemnity costs of GPs who were willing to work more out of hours sessions to deal with winter pressures.

NHS England and the Department of Health are embarking on further consultations with GPs, Clinical Commissioning Groups (CCGs) and Mutual Defence Organisations (MDOs) to explore long term options, especially with regard to the ability of GPs to deliver out of hours care.

This debate pack briefing applies to England only, but some information about arrangements in the rest of the UK can be found in section 1.7.

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Background

1.1 GP Medical Indemnity

Since the introduction of the [Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014](#), all registered healthcare professionals are legally required to have adequate and appropriate insurance or indemnity to cover the different aspects of their practice in the UK. Those working in hospitals are covered by The Clinical Negligence Scheme for Trusts (CNST) which provides indemnity for clinical negligence, and which is administered by the NHS Litigation Authority. By contrast, however, GP contractors, locum GPs, and salaried GPs employed by practices are not indemnified by this scheme and are required to purchase personal medical indemnity. This is usually provided by Mutual Defence Organisations, which are mutual non-profit organisations. The three MDOs operating in England are the Medical Defence Union (MDU), the Medical Protection Society (MPC), and the Medical and Dental Defence Union of Scotland (MDDUS). They provide clinical negligence cover relating to NHS work to over 99% of GPs.¹

1.2 Rising cost of indemnity for GPs in England

The cost of medical indemnity for GPs has risen significantly in recent years. In 2016, the BMA cited indemnity inflation as being one of the most pressing concerns facing GPs in England, in evidence to the House of Commons Health Select Committee.² According to the survey carried out as part of the NHS England GP Indemnity Review, between 2010 and 2016 there was an increase in the average payment for indemnity for in-hours (scheduled) care of more than 50%.³ In its 2014 annual report, the Medical Defence Union published data which suggests indemnity inflation is around 10% per annum.⁴ The inflation for out of hours care sessions is, according to the Review, likely to be higher, and thought to be around 20% per annum, although this is much harder to establish due to data availability.⁵ Of the GPs surveyed by the GP Indemnity Review, 72% claimed that the rise in their indemnity costs had deterred them from taking on out of hours sessions, which is far more than were deterred from taking on any other type of clinical session.⁶

¹ NHS England, [GP Indemnity Review](#), July 2016, p. 5.

² Health Select Committee, [Primary Care](#), 12 April 2016, HC 408 2015-16, pp. 22 and 51.

³ [GP Indemnity Review](#), p. 7.

⁴ Medical Defence Union, [Report and Accounts 2014](#), 2014, p. 10.

⁵ [GP Indemnity Review](#), p. 8.

⁶ *Ibid.*, p. 8. The next largest percentage were the 39% of GPs who claimed to have been deterred from taking on additional weekend sessions.

1.3 Cause of rising indemnity costs

There are various causes for the rise in indemnity costs. The GP Indemnity Review found that there are likely to be a number of 'root-causes', some relating to the volume of cases – because GPs are seeing a higher volume of patients – and others due to the costs of damages which are increasing. Because of this, it is expected that the cost of indemnity will continue to rise at a similar annual rate as in recent years. One particular cause of indemnity costs is an issue of English law whereby each time a new pay-out is made, the level for all future pay-outs increases. This is particularly problematic where an MDO has an outstanding claim to pay based on an incident which occurred when subscriptions were priced on a previous pay-out level.

1.4 Proposed short term solutions from NHS England and the Department of Health

The GP Indemnity Review group was established in May 2016 following the publication of NHS England's *General Practice Forward View* in April 2016 which committed an extra £2.4 billion a year to support general practice services by 2020/21, and promised to address rising indemnity costs for GPs.⁷ The Indemnity Review was designed to be:

...a short-term, focussed piece of work which sought to establish the extent of inflation in GP indemnity, the root causes of this, and to identify proposals for improving the situation.⁸

Its report, published in July 2016, proposed certain short term solutions to relieve pressures on GPs immediately. In particular, it proposed a new scheme to provide direct financial support to general practice. This will be offered by NHS England, based on the estimated annual inflationary increase in indemnity costs, and then distributed among practices based on their list size. The first payment will be made in April 2017, and a corresponding payment will be made in April 2018 to cover inflation experience in 2017/18. It will then be reviewed subject to progress on ongoing indemnity reform.⁹ In August 2016, the BMA GP committee chair, Chaand Nagpaul, [said](#):

While this is an important and significant recognition of the impact of rising GP indemnity fees, we see this as only a first step. There is a need for a definitive solution to rocketing indemnity costs, which are also mentioned in NHS England's proposals.

1.5 Out of hours care sessions

In the winter of 2015/16, NHS England created a Winter Indemnity Scheme which provided £2 million to cover the cost of additional indemnity premiums for doctors to undertake additional out of hours sessions, and this ran from December 2015 to March 2016. Another [Winter Indemnity Scheme](#) is being implemented during the winter of

⁷ NHS England, [General Practice Forward View](#), April 2016.

⁸ *GP Indemnity Review*, p. 4.

⁹ *Ibid.*, pp. 11-12.

2016/17 which began in December 2016 and will end on 31 March 2017.

1.6 Long term indemnity reform

Over the long term, NHS England has been engaging in discussions with GPs and CCGs in order to develop lasting proposals to protect GPs working out of hours from indemnity inflation during 2017-18. Equally, NHS England and the Department of Health are conducting further investigations into how to reduce the long term costs of indemnity for GPs.¹⁰ In particular, there is a focus on how to tackle the issue of increased sums being paid out as damages. One proposal under consideration, therefore, is legal reform, specifically fixing the amounts that can be recovered in costs by legal firms in certain cases. On 25 January 2017, Health Minister David Mowat said in answer to a question by Alex Chalk MP that the Department of Health was considering a 'Fixed Recoverable Costs Scheme that would limit recoverable legal costs on clinical negligence claims'.¹¹

1.7 Other parts of the UK

Indemnity cover for [GPs in Wales](#) operates slightly differently to that in England. Welsh Risk Pool Services is a mutual organisation, funded by NHS Wales, which reimburses losses over £25,000 incurred by Welsh NHS bodies arising out of negligence. It provides indemnity to GPs in Wales for their out of hours work only. GPs directly employed through a contract with the health board are covered by NHS indemnity. This indemnity, however, relates only to clinical negligence claims arising from out of hours work and GPs are required to make their own arrangements with the MDOs for indemnity for all other work. Recent changes to GP contracts in Wales include a provision for contribution to the rising costs of indemnity.

[In Scotland](#), GPs contracted independently must also seek their own arrangements with an MDO, but those GP practices established by a Health Board are covered by the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) by NHS Scotland.

In May 2016, the chief clinical officer for NHS Northumberland CCG was reported to have claimed that there was 'a £5,000 a year difference between working a full time ten-session GP' in Northumberland and the equivalent north of the border. The MDDUS have claimed that this difference is accounted for by GPs in England being ten times more likely to be subject to a claim than those in Scotland, and that additionally the value of claims made south of the border are also greater.¹² However, there is no systematic analysis of GP indemnity costs in Scotland, Wales, and Northern Ireland which would enable a comparison with England.

¹⁰ *Ibid.*, pp. 13-16.

¹¹ [PQ 60413](#), 25 January 2017.

¹² '[English GPs move north of the border due to spiralling indemnity fees](#)', *Pulse*, 20 May 2016.

2. Parliamentary material

Written Parliamentary Questions

[General Practitioners: Insurance](#)

Asked by: Chalk, Alex | **Party:** Conservative Party

To ask the Secretary of State for Health, what progress his Department is making on identifying the most effective ways of addressing the root causes of the rising costs of indemnity for GPs.

Answering member: David Mowat | **Party:** Conservative Party |
Department: Department of Health

Over the summer of 2016, the Department and NHS England established the General Practice Indemnity Review as a short-term, focussed piece of work which sought to examine the extent of inflation in general practitioner (GP) indemnity, the root causes of this, and to identify proposals for improving the situation.

Following that review, the Department and NHS England committed to further work to address the growing cost of claims in relation to clinical negligence claims.

This work has now been incorporated into the Department's core business. Officials have been working with stakeholders including the Medical Defence Organisations, NHS Litigation Authority and Ministry of Justice to understand and address the root causes of rising indemnity costs – which are similar in both primary and secondary care.

The Department is considering a number of policy options to address rising costs, one of which is a Fixed Recoverable Costs Scheme that would limit recoverable legal costs in clinical negligence claims. A consultation on this measure will be launched shortly.

Work on other policy options will continue over the next year.

25 Jan 2017 | Written questions | Answered | House of Commons | 60413

[General Practitioners: Insurance](#)

Asked by: McCabe, Steve | **Party:** Labour Party

To ask the Secretary of State for Health, pursuant to the Answer of 13 September 2016 to Question 45660, for what reasons the cost of indemnity is rising for GPs.

Answering member: David Mowat | **Party:** Conservative Party |
Department: Department of Health

Over summer 2016, the General Practice Indemnity Review was established as a short-term, focussed piece of work which sought to examine the extent of inflation in General Practitioner (GP) indemnity, the root causes of this, and to identify proposals for improving the situation.

Its findings are available on the NHS England website:

<https://www.england.nhs.uk/wp-content/uploads/2016/07/gp-indemnity-rev-summary.pdf>

The increases in costs experienced by GPs mainly reflect the fact that the amount of damages being awarded to victims of clinical negligence is increasing year on year, and the volumes of claims is also rising.

The size of damages awarded by the courts have increased year on year, and this needs to be reflected in the amount GPs pay for their indemnity. GPs are also seeing a higher volume of patients than previously, and evidence suggests that patient behaviour has undergone a significant change in recent years, in a way that may lead to an increase in the likelihood of a claim arising.

It is clear that there has been no material deterioration in the quality and safety standards within primary care in recent years, so it is unlikely that the increase in indemnity costs is reflective of the safety of care being provided.

17 Oct 2016 | Written questions | Answered | House of Commons | 47387

[General Practitioners: Insurance](#)

Asked by: Murray, Mrs Sheryll | **Party:** Conservative Party

To ask the Secretary of State for Health, whether his Department holds data on the number of general practitioners who have ceased practising in the last five years as a result of the costs of personal medical indemnity in (a) England and (b) each English region.

Answering member: David Mowat | **Party:** Conservative Party | **Department:** Department of Health

The Department and NHS England committed in the recently published General Practice Forward View to review the current arrangements for indemnity cover for general practitioners (GPs).

To take this review forward, a General Practice Indemnity Steering Group was established by the Department with NHS England to look at the rising cost of indemnity, which resulted in an announcement that NHS England would provide a financial support package this year and next to assist GPs with rises they may be facing in their indemnity premia. NHS England also committed to run a winter indemnity scheme in 2016-17, and to provide support to GPs experiencing indemnity inflation as a result of their out-of-hours activity. A number of other measures to address the root causes of rising indemnity costs were also announced.

This review gathered evidence about the impact of the rising cost of indemnity on GPs, and specifically sought representations from GPs via a survey which asked about their personal experiences of indemnity costs and how this had affected them. The survey received over 4,500 responses from individual GPs. The review also held several discussions with GP representative groups.

The survey of GPs suggested that indemnity costs rose, on average, by around 7% per annum in the last five years. Data published by the medical defence organisations, who provide indemnity cover to GPs, suggested that this inflation was closer to 10% per year. The review judged the latter figure to be more accurate. The review also considered funding for expenses as part of the GP contract, which in 2016-17 was topped up by £33 million specifically for increased indemnity costs. The review concluded that overall, in the last five years, GP indemnity costs have risen as a proportion of GP income.

The Department holds no data on the number of GPs who have ceased practising in the last five years as a result of the costs of personal medical indemnity in England and each English region.

The survey of GPs indicated that the rising cost of indemnity may sometimes deter GPs for taking on additional sessions, and some GPs told the review that the cost of indemnity may also influence their willingness to join the profession, to remain in the profession, or to increase their workload.

15 Sep 2016 | Written questions | Answered | House of Commons | 45401

[General Practitioners: Insurance](#)

Asked by: Murray, Mrs Sheryll

To ask the Secretary of State for Health, what assessment his Department has made of the effect on general practitioners of the affordability of personal medical indemnity.

Answering member: David Mowat | **Department:** Department of Health

The Department and NHS England committed in the recently published General Practice Forward View to review the current arrangements for indemnity cover for general practitioners (GPs).

To take this review forward, a General Practice Indemnity Steering Group was established by the Department with NHS England to look at the rising cost of indemnity, which resulted in an announcement that NHS England would provide a financial support package this year and next to assist GPs with rises they may be facing in their indemnity premia. NHS England also committed to run a winter indemnity scheme in 2016-17, and to provide support to GPs experiencing indemnity inflation as a result of their out-of-hours activity. A number of other measures to address the root causes of rising indemnity costs were also announced.

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The Department holds no data on the number of GPs who have ceased practising in the last five years as a result of the costs of personal medical indemnity in England and each English region.

The survey of GPs indicated that the rising cost of indemnity may sometimes deter GPs for taking on additional sessions, and some GPs told the review that the cost of indemnity may also influence their willingness to join the profession, to remain in the profession, or to increase their workload.

15 Sep 2016 | Written questions | Answered | House of Commons | 45400

Date tabled: 07 Sep 2016 | **Date for answer:** 12 Sep 2016 | **Date answered:** 15 Sep 2016

[General Practitioners: Insurance](#)

Asked by: Prisk, Mr Mark

To ask the Secretary of State for Health, what assessment he has made of the merits of bringing forward proposals to extend crown indemnity to GPs.

Answering member: Alistair Burt | **Department:** Department of Health

The Department is working with NHS England on a number of steps that form part of a longer term consideration on primary care indemnity cover. This will: look at the historical position on indemnity provision; consider carrying out a scoping exercise on general practitioner (GP) indemnity; and include wider consultation with GPs, patients, defence lawyers, claimant lawyers, medical defence organisations, the NHS Litigation Authority and commercial insurance organisations.

15 Mar 2016 | Written questions | Answered | House of Commons | 30074

Date tabled: 07 Mar 2016 | **Date for answer:** 09 Mar 2016 | **Date answered:** 15 Mar 2016

3. Press notices

[Progress is being made on GP Forward View - but much more must be done urgently to support frontline GPs and patients](#)

Royal College of General Practitioners, 31 January 2017

[Offer to cover GP indemnity costs](#)

British Medical Association, 15 September 2016

[GP indemnity offset measure 'only the first step'](#)

British Medical Association, 8 August 2016

4. Press articles

[GP indemnity costs to rise as government hikes personal injury payouts](#),
GP Online, 28 February 2017

[GP contract indemnity fund 'potentially divisive' for locums and practices](#), **GP Online, 22 February 2017**

['English GPs move north of the border due to spiralling indemnity fees'](#),
Pulse, 20 May 2016

[Annual hikes in GP indemnity fees to be reimbursed from April 2017](#)
Pulse, 28 July 2016

[Rise in medical indemnity costs accelerates as 90% of GPs face higher fees](#)
GP Online, 8 July 2016

[Paying out-of-hours indemnity 'added 15,000 GP shifts this winter'](#)
Pulse, 9 February 2016

[GP indemnity fees spiral out of control with 26% rise last year](#)
Pulse, 21 January 2016

5. Further reading

- NHS England, [GP Indemnity Review](#), July 2016.
- NHS England, [General Practice Forward View](#), April 2016.
- Commons Briefing Paper CBP07194, [General Practice in England](#)

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