Member Guide



Glossary

Assistance: Support we provide, which can include legal advice and

legal representation.

Claims made: You can ask for our assistance with an incident, as long

as you were an active member when it happened, and report it to us while your membership is in force.

Extended reporting period: The ongoing right to request assistance from the MDU,

when you are no longer a claims made member, for a specific incident which happened when you were a paying

claims made member.

Indemnity: Compensation we can provide for you to pay damages for

clinical negligence.

Mutual fund: Money we collect in the form of members' subscriptions

which we hold to defend our members and provide other

membership benefits.

Occurrence based: The right to ask for our help at any point in the future as

long as you were a member when the incident happened, even if you have since left, retired or taken a career

break, such as parental leave.

Specific incident: A circumstance which happened with an individual

patient or in relation to a distinct medico-legal report on a particular date, which may give rise to a claim or

request for medico-legal support.

Special provisions: Where your access to our benefits of membership is

tailored to your individual practice.

Vicarious liability: When you are legally responsible for the acts or

omissions of people who work for you.

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As an MDU member you can practise with confidence

We are a not-for-profit organisation dedicated to our members' interests. We are the market leader for medical defence in the UK.

We offer you expert **guidance**, personal **support** and a robust **defence** if your clinical competence or care of patients is questioned.

Our team is led and staffed by doctors with real-life experience of the pressures and challenges faced in practice.

We have an unmatched track-record of helping members overcome the challenges which could threaten their livelihood.

You can **practise with confidence** because we are on your side, and by your side.

This is your guide to MDU membership. It describes the main benefits and responsibilities of membership. For more information, please visit our website at *themdu.com*

Benefits of membership

We use the mutual fund to provide assistance to members. We are not an insurance company. If you ask us for assistance or indemnity, this may be provided, at our Board of Management's discretion, under our Memorandum and Articles of Association.

Occurrence based membership

If the benefits we provide for this period of membership are on an occurrence basis, this means that you can ask for our assistance as long as you are (or were) our member at the time the incident happened. This applies even if you are no longer a member or have retired or stopped practising. Your estate can even ask for our help after your death.

Claims made membership

If the benefits for this period of membership are on a claims made basis, this means that you can request assistance with claims, GMC investigations and other matters arising from a specific incident as long as the specific incident happened while you were in claims made membership, you remained in claims made membership or you were in an Extended Reporting Period (explained on page 24 in this guide) when:

- a. the specific incident was notified to us by you; or
- b. you first requested MDU assistance with a claim or other medicolegal problem arising from the specific incident.

If you were an MDU member on an occurrence basis before becoming a claims made member, you can still ask for assistance for an incident which happened during your occurrence membership. This applies even if you are no longer a member, have retired or stopped practising. Your estate can even ask for our help after your death.

Primary care members in England and Wales who have been on Transitional Benefits membership have specific conditions applying to that period of membership.

At the time this guide was written, there had been no agreement with the government for the state-backed indemnity scheme to meet the costs of claims occurring before the start of the state-backed scheme. As a result, should members on Transitional Benefits membership leave the MDU or retire from practice, you (or your personal representatives if you die) will need to apply for, and be granted, an Extended Reporting Period to request help with claims arising from an incident or course of treatment which happened during your period of Transitional Benefits membership.

Guiding you

24-hour medico-legal advice and guidance

If you face a difficult ethical or medico-legal issue in your career, don't lose sleep. Speak to specially trained doctors and lawyers on our free 24-hour helpline. We took almost 30,000 calls from members on our advice line last year. (Our medico-legal team is available between 8am and 6pm Monday to Friday and provides an on-call service for medico-legal emergencies or urgent queries 24 hours a day, 365 days a year).

Stay up to date with our publications

Our highly regarded publications are free to members and feature real case histories and topical articles on subjects such as complaints and confidentiality. These are available online or via your mobile phone with our app.

Keep your finger on the pulse with themdu.com

You can access all areas of our website including advice, hot topics, case studies, podcasts, videos and webinars. Using secure login details, you can also review and update your personal membership details whenever you want.

Achieve your potential with learning and development

Take advantage of our local medico-legal seminars, specialist training courses and online CPD. These are free of charge, or at a substantial member discount, depending on the service you choose. You can also buy text books at preferential member rates from publishers.

Supporting you

Face to face

We can visit you locally to discuss your membership. This gives you the opportunity to meet our specialist liaison teams and sort out questions face to face. We can also arrange training on medico-legal topics, free of charge, to local groups of clinicians.

At your call

Our accredited membership team is just a free phone call away. If you have a question about your subscription or the work you can be indemnified for, we can help you from 8am to 6pm, Monday to Friday (except bank holidays).

Worried about a complaint?

While claims make the headlines, it's often complaints which cause the most concern to our members. If you receive a complaint, our team of medico-legal experts is here to help.

Facing an investigation?

If you are under investigation by your employers, the GMC or another body, it can be highly stressful. NHS bodies are unlikely to help you with personal support. But we can help you prepare your evidence and help defend your actions if necessary.

Do journalists want a story?

Press attention is rarely good news for members. Our media team can help you respond to enquiries and avoid common pitfalls.

You can rely on our support for:

- patient complaints at local level and those referred to the Parliamentary and Health Service Ombudsman;
- complaints to the General Medical Council (GMC), Nursing and Midwifery Council (NMC) or Healthcare Professions Council (HPC);
- local disciplinary investigations and hearings arising from your clinical practice (if local procedures allow for our attendance);
- investigations by the Practitioner Performance Advice (PPA) arising out of clinical concerns;
- criminal investigations and proceedings arising from clinical practice e.g. gross negligence manslaughter;
- preparing a case and representation at inquests (or equivalent formal inquiry);
- local, regional or national inquiries into the clinical management of patients;
- advice on managing risks; and
- representing you when dealing with press or media enquiries.

Defending you

Representing you during a GMC fitness to practise investigation/Medical Practitioners Tribunal service (MPTS) tribunal

One of the toughest experiences for a doctor is to face a registration body fitness to practise tribunal. Your career and reputation are on the line. At this point you want to know you have the best medical experts and lawyers defending you.

The costs of defending a GMC case can be more than \$50,000. However, you can rest assured that we can represent you at a hearing, giving you the best chance of a good outcome.

If your GMC case leads to a referral to the High Court, either by the GMC or by the Professional Standards Authority (PSA), we can be by your side, providing you with strong legal representation.

Representing you at a criminal trial

While rare, doctors can face police charges arising from their treatment of a patient. Faced with the ordeal of a public trial and the threat of prison, you need experts on your side as well as by your side. We can provide you with expert legal help to build and present your case and defend you.

Representing you at a disciplinary hearing

If you face a disciplinary hearing in connection with your clinical practice, we can provide you with expert advice and representation and attend with you (where permitted under the procedures).

Professional indemnity for claims

You can approach us to seek assistance with claims that arise from the normal practice of clinical medicine in the UK that are not indemnified by an insurance policy or NHS scheme.

We recognise your professional reputation is at stake. This is why we will not settle a claim unless you agree. Over the last 10 years, we successfully defended over 75% of claims, making no compensation payments.

Where it is appropriate that patients are compensated, we aim to do so quickly and efficiently to reduce, as far as possible, the stress for everyone involved.

MDU assistance with claims can include:

- paying compensation, claimants' legal costs and defence expenses arising from claims for professional negligence arising from your clinical practice (including assistance for your personal representatives and beneficiaries if a claim arises after your death);
- defence costs (but not damages) for claims which arise from allegations of defamation against you, arising from your clinical practice;
- defence costs (but not damages) for claims which arise from allegations, which are not proven or admitted, of sexual harassment, sexual misconduct, unlawful discrimination or any other alleged unlawful conduct by you which arises from your clinical practice; and
- indemnity for claims arising from Good Samaritan acts carried out anywhere in the world.

Reporting a claim

If the claim made against you in primary care relates to work indemnified by a state-backed scheme, this needs to be reported to NHS Resolution in England or NHS Wales Shared Partnership - Legal and Risk Services in Wales.

Usually the first time you hear about a claim for compensation against you is when you receive court papers or a letter from a patient or their solicitor (a 'letter of claim'). This can be a shock.

Our claims team is here to support you every step of the way. The team includes doctors, professional indemnity claims experts and solicitors, who will keep you informed about the progress of the claim.

Once you have told us about the claim, an adviser will send you a checklist of documents we need from you.

You can see the checklist online at *themdu.com/claims*

We will ask you to send your documents as soon as possible to:

Claims Manager, MDU Services Limited, One Canada Square, London E14 5GS.

It's important that you do this straight away, as we usually only have 16 weeks from you receiving a detailed 'letter of claim' (or less time if you have received court papers) to provide a detailed response.

Reporting a claim to us is easy. Simply call our medico-legal helpline on **0800 716 646** (or 1 800 535935 from Ireland). The sooner we know, the sooner we can help you.

Practise with confidence

As a members' organisation, we believe it's important to provide up front information about when we are likely and unlikely to help members. This means you have a good understanding of what to expect when asking for our help.

As our member you can ask us for help, which we may provide at our Board of Management's discretion. The following are examples of things we may take into account when deciding whether to help you.

 You should have been a member of the MDU when the incident took place,

and

If your membership is on a claims made basis, you must have remained in active claims made membership, or you were in an Extended Reporting Period (see page 24) when the specific incident was notified to us by you; or you first sought MDU assistance with a claim or other medico-legal problem arising from the specific incident.

- You should have declared to us the nature of your practice, in terms of type and quantity of work and have paid the appropriate subscription.
- You should have told us about any change in your circumstances, and about any change to your professional or personal situation which is relevant and has, or may have, a material bearing on your professional practice, or on your MDU membership.

- You should have been registered and licensed with the GMC or another appropriate registration body to carry out the clinical duties you did and have had the training and experience needed for these duties.
- You should co-operate fully with us and our representatives.
- You should provide full and accurate information relevant to the case without delay, and be truthful and act in good faith at all times.
- You should not have admitted legal liability for a claim, or settled a claim without our agreement.
- The matter should have arisen from your clinical practice in the UK. The patient should be in the UK on the date of the incident and the date of the examination (if different), unless you have specific agreement from our membership team to work overseas (see page 16).

If you need our help, simply call **0800 716 646**, our 24-hour freephone medicolegal helpline. Please tell us as soon as possible about any claim against you or about any circumstances that may give rise to a claim, about work which is indemnified by the MDU.

When we are unlikely to provide support

We carefully consider each request for help. But the following are examples of when we are unlikely to provide support.

Matters which can be covered by other insurances and organisations providing indemnity

- Matters where you, or another person you have vicarious liability for, are entitled to indemnity under an insurance policy or an NHS scheme including the NHS clinical negligence schemes for trusts and general practice in England and Wales, or are entitled to ask for help from another organisation (unless on the first or second year of a Foundation programme).
- Claims arising from your vicarious liability for any act or omission (failure to act) of a registered medical or dental practitioner or any other person or entity, any other registered healthcare professional (except practice nurses*), or any person providing laboratory or other service to the medical, dental or allied professions** (unless specifically agreed by the MDU).
- Claims arising from the clinical practice of your partner in a firm, including a general medical practice.
- Claims relating to property, including its damage or destruction.
- Claims relating to making, distributing or selling any product.
- Pollution or environmental claims, other than relating to treating an individual patient who is injured or ill as a result of pollution.
- Claims arising from material published or broadcast by you, or on your behalf, or to which you have contributed.

practitioners. Please contact the membership team for details.

^{*} A practice nurse is a nurse who is not, and is not held out to be, a nurse practitioner or advanced nurse practitioner within our definition(s).

We can provide individual membership for other registered healthcare professionals, including nurse

^{**}It is important that you regularly ensure all registered medical or dental practitioners, any other registered healthcare practitioner (except practice nurses*) or any person providing laboratory or other services whom you employ, engage or supervise, or who operate under your control, have in place membership of a medical defence organisation or a policy of insurance or be indemnified by an NHS indemnity scheme to indemnify them for a claim of clinical negligence against them.

Matters of deliberate, reckless or criminal acts

- Defending criminal charges arising from activities not related to the normal treatment of a patient, for example assault of a colleague or motoring offences.
- Any matters arising from a criminal act which you have admitted or which has been proven, including damages or fines resulting from such an act.
- Claims arising from unlawfully selling, supplying or using any substance.
- Any matters arising from you (or anyone you have vicarious liability for) deliberately intending to cause harm or practising in a manner that does not align with the ethics and expectations of the profession. This includes but is not limited to, your or their knowing (or obvious) dishonest, fraudulent, malicious or reckless acts or omissions (including retrospectively altering medical or other records).
- Damages awarded for a claim which arises from allegations of sexual harassment, sexual misconduct, unlawful discrimination, defamation or any other alleged unlawful conduct by you, which

- arises from your clinical practice or a Good Samaritan act, and legal costs for any matter which is proven or admitted.
- Defending allegations of personal misconduct (as distinct from clinical issues) in local disciplinary investigations or hearings.

Matters of commercial interest

- Partnership, employment or agency disputes or contracts, or compensation claims. (We do not support members with employment advice and associated services and encourage you to join the BMA or another representative organisation as well as joining the MDU).
- Fee scales and recovery of charges for work you have carried out.
- Claims arising from your involvement in the clinical management or assessment of a professional sportsperson where the claim is not being brought by, or on behalf of, the patient or their dependants.
- Withholding of your pay in conjunction with a disciplinary hearing.
- Issues arising from commercial contracts or arrangements, or related to any trading or personal

- debt you may have, including claims arising from your insolvency or bankruptcy.
- Investigations by competition authorities.
- Any indirect or consequential loss, or loss of profits or earnings by you.
- Claims that may be made in relation to your work as a director of a company (unless specifically agreed in advance).

Other matters which may not be in the wider interests of our members

- Your personal costs arising from your attendance at court, hearings or meetings with us about your case, or the costs of any locum cover you may arrange.
- Claims made by someone who is not the recipient about reports you have provided, if the subject of that report is a general clinical matter and not about a patient.
- Any matters arising from your practice where we or the NHS are not your indemnifier for clinical negligence claims arising from the work.

- Any issues arising from your failure to achieve the educational or training standards necessary, for example failing exams.
- Damages awarded in a claim for defamation against you arising from your clinical practice or a Good Samaritan act.
- Legal expenses or costs if you pursue a grievance or claim of defamation or discrimination against someone else.
- Exemplary or aggravated damages awarded against you.
- Claims from members on claims made membership, where you have retired from practice or left the MDU and have not applied for, and been granted, an Extended Reporting Period. Please see page 24 for further information.

If you are not sure whether indemnity can be made available for a particular area of your work, please call our membership team on **0800 716 376**.

Working overseas

If you are planning to work overseas, please let our membership team know before you go.

Claims made membership is not suitable for members who wish to work overseas. If you intend to work overseas please contact the membership team on **0800 716 376** to discuss your indemnity needs.

- If you are a paying member in a deanery-approved training post in the UK, you may ask us to add a 'special provision' to your membership, which would extend your membership to include working for up to one year in a recognised supervised training post overseas, except in the USA, Australia, Canada, Bermuda, Israel, Hong Kong, Nigeria or Zimbabwe. (This would not extend to clinical work in a private or unsupervised capacity overseas.)
- Other members working overseas (other than training grades mentioned above) may ask for assistance or indemnity during a visit of less than three months, if the work is mainly of a teaching nature and you have our agreement before you go.
- All members can receive professional indemnity for Good Samaritan acts worldwide. This means providing clinical services related to a clinical emergency, accident or disaster when you are present as a bystander.

Except for Good Samaritan acts, we do not offer assistance or indemnity with matters arising from practising in the USA, Australia, Canada, Bermuda, Israel, Hong Kong, Nigeria or Zimbabwe or for matters over which courts of those countries are responsible.

If you are going to work overseas for longer than one month, and we have advised you that we cannot offer assistance or indemnity for your overseas work, you may be able to place your membership on hold for the period that you are away.

Going to work in Ireland, Scotland or the Channel Islands?

If you are going to work in Ireland (either Northern Ireland or the Republic of Ireland), Scotland or the Channel Islands, please call our membership team before you go.

You may need to pay a different subscription depending on how long you are going for and the type of work you will be doing.

- If you are a paying UK member who is registered with the IMC to practise in Ireland and carry out some of your work in Ireland you may be entitled to ask for assistance for your Irish work.
- If you are a paying UK member and you move to work in Ireland please contact our membership team before you go for information about membership options in Ireland.
- It is unlikely that we will provide assistance for a claim arising from your involvement in obstetric care in Ireland whether antenatal, intrapartum or post-natal care.

Your membership

Your subscription

The MDU is a not-for-profit mutual company, owned by our members.

All subscription income is used to provide benefits of membership and meet the running costs of the company.

Over the years we have developed sophisticated actuarial, underwriting and clinical risk management capabilities enabling us to have an increasingly comprehensive and detailed understanding of the risk resulting from the clinical practice of each individual member.

As a reflection of the dynamic nature of medical practice and the claims environment, our calculation of risk is constantly evolving. This can result in subscription changes either up or down to reflect our assessment of the risk within each member's practice from year to year.

If you are a GP, consultant with private practice or dentist in general practice, your individual subscription is based on the amount and type of work you undertake as well as additional factors reflecting your career experience and work environment. It is important that you keep your membership details up to date. This is easy to do online at themdu.com

You can download the MDU app to access your membership card and proof of membership as well as keep up to date quickly and easily with our medico-legal advice and guidance.

These additional factors can include:

- past claims or potential claims
- complaints and other professional difficulties (whether involving the MDU or not)
- the length of your MDU membership
- factors relating to your place of work and your professional responsibilities

It is important therefore that the information you give us about your past and current practice is complete, accurate and up to date. Failing to keep us informed of the type and amount of work you do, or changes to your practice, could affect your access to the benefits of MDU membership.

If there is any change in your circumstances or a change in your professional or personal situation which could possibly have a material bearing on your professional practice, or on your MDU membership, you must tell us immediately.

If you are a consultant with private practice you may be able to reduce the cost of your yearly membership subscription by making full use of our generous expenses allowance.

To find out more, please visit themdu.com/expensesallowance

Refunds

Your subscription pays for one year's membership. If you want to cancel your membership early, we do not offer refunds unless there are special circumstances such as sickness, retirement or family leave, and we don't refund amounts of $\mathfrak{L}10$ or less.

Where a refund is due, we will usually make it to the organisation or person who paid the subscription with the same payment mechanism they used.

Customer service excellence

Our membership team is just a free phone call away. You can reach us between 8am and 6pm, Monday to Friday (except bank holidays). We can help you with any membership questions you may have.

We are proud that our team has been accredited under the prestigious Customer Service Excellence programme and provide high levels of service.

Complaints

As part of our commitment to customer service excellence, we take complaints seriously and do our best to deal with them quickly and fairly. If you have a complaint, please contact:

Head of Membership Quality and Control, MDU Services Limited, One Canada Square, London E14 5GS or visit themdu.com/complaints

Data protection

How we manage your data

We understand the importance of storing your data securely and telling you how we will use your data in a transparent and clear way. Whether providing a subscription quote, sending you cautionary tales or our medico-legal journal or defending a claim on your behalf our aim is to make sure that the personal details you provide to us are secure and processed as explained in our privacy policy. Read our full policy at themdu.com/privacy

Protecting patient information

Many members, including general practitioners and consultants working in private practice, will continue to be considered data controllers under Data Protection Legislation and are therefore required to inform patients about how they will use the data they hold about them. You should therefore inform your patients – in practice leaflets, privacy notices and complaints procedures etc. – that, should a patient make a complaint or claim, you may need to provide information about the patient, and treatment they have received, to insurers, indemnifiers or legal advisers.

Sending information to our advisory team

When seeking medico-legal advice from the MDU, please **do not send us any information about patients that is not directly relevant to your enquiry** and necessary for us to advise or assist you. If you do need to send information about patients you should remove any details that could identify the patient(s) concerned (other than their initials and date of birth which we need to check for conflicts or duplicates), unless we have specifically

requested original unedited documents.

Providing our advisory team with documents that contain unnecessary personal data about patient(s) may delay our ability to respond quickly as we may need to remove identifying details from incoming correspondence before passing it on to an adviser.

Sending information to our claims or legal teams

Generally, documents sent to our claims handling or legal teams should be sent securely in their original form with no information removed.

Please ensure that information sent via storage media devices (CDs, USB sticks etc) are encrypted before being sent to the professional services teams.

Added security for your peace of mind

In certain circumstances, when dealing with highly sensitive or confidential information, we may want to send you content using Egress email encryption software. In these circumstances we will contact you with further details on Egress encryption.

Continuing your membership

About three weeks before the end of your membership year, you will receive an invitation to renew your MDU membership. We ask you to respond to us before your renewal date. However, we allow 28 days grace beyond the renewal date to allow you to pay. As long as you can confirm that no new incident has happened since the renewal date, which may give rise to a claim, we will honour the renewal terms.

If you pay by Direct Debit, all you need to do is check the renewal information and tell us immediately if there are any changes. This is quick and easy to do, simply visit *themdu.com* and login to My membership.

If you do not pay by Direct Debit and you do not respond to the invitation to renew, we will cancel your membership from the renewal date. We will send you written confirmation of this. If you then want to reinstate your membership, you can do this within 28 days of your renewal date at our discretion.

Discontinuing your membership

Occurrence based

If your membership is on an occurrence basis, if you leave MDU membership you can continue to request our assistance for incidents that happened at any time when you were a paying member of the MDU, even after you have retired.

Claims made

If your membership is on a claims made basis, if you take a career break, for example for parental leave, or if you leave MDU membership you will lose your right to request assistance for specific incidents that happened during your claims made membership which have not previously been notified to us, unless you arrange an Extended Reporting Period (as explained on page 24).

General practitioner members in Northern Ireland

From your next renewal your membership will be on a claims made basis.

Taking a career break

You might wish to take a career break, for example for parental leave. In order for you to continue to be able to request assistance after you have started your break, you will need to keep your membership in place, including renewing it if you pass your renewal date.

If you are on a break you may need to continue to pay a subscription although it is likely to be at a reduced rate as you will not be treating patients. Please tell the membership team before starting your break and when you return to work.

Reporting claims and requesting MDU assistance after you retire or after your death

If you leave claims made membership or die, you (or your personal representatives after your death) can still request assistance with claims, GMC investigations or other matters that arise from a specific incident which happened while you were in claims made membership as long as the specific incident was notified to the MDU while you were still in claims made membership.

In order to seek MDU assistance with new matters arising from a specific incident which happened while you were in claims made membership, but which was not notified while you were still in claims made membership, you (or your personal representatives after your death) will need to apply for and be granted an Extended Reporting Period (as explained on page 24).

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Extended Reporting Period

An Extended Reporting Period provides an ongoing right to receive MDU assistance, when you are no longer an active member, for claims arising from an incident or course of treatment which happened during your claims made membership.

An Extended Reporting Period can be applied for by you (or your personal representatives after your death) by contacting the membership team. An additional subscription may need to be paid.

Applications for an Extended Reporting Period must be made before you leave MDU membership or up to 30 days after your membership ends. After your death, your personal representatives have 30 days to apply for an Extended Reporting Period once probate or letters of administration are granted.

The granting of an Extended Reporting Period rests at the discretion of the Board of Management of the MDU.

If you apply for, and the MDU grants an Extended Reporting Period, no additional subscription will be necessary in the following circumstances:

- a. You are permanently retiring from medical practice, having reached the normal retirement age for your NHS pension scheme, and have been in continuous claims made membership for the preceding ten years.
- In the event of your death while in MDU membership and your personal representatives apply for, and the MDU grants an Extended Reporting Period.
- c. You permanently retire from practice as a result of ill health while you are in MDU membership and apply for, and are granted, ill health retirement under the terms of your NHS pension scheme.

In all other circumstances an additional subscription will need to be paid.

An Extended Reporting Period will be renewable annually with a further subscription payable each year.

You will not have to pay an additional subscription for the continuing right to request the benefits of membership in relation to new matters arising from events during a period of occurrence based membership that pre-dated your period of claims made membership.

Notes		



How to contact us

Membership

- t 0800 716 376
- e membership@themdu.com

Medico-legal helpline

- t 0800 716 646
- e advisory@themdu.com

Your feedback

Give us your feedback about the MDU themdu.com/feedback

Website

themdu.com









MDU Services Limited (MDUSL) is authorised and regulated by the Financial Conduct Authority for insurance mediation and consumer credit activities only. MDUSL is an agent for The Medical Defence Union Limited (MMDU). MDU is not an insurance company. The benefits of MDU membership are all discretionary and are subject to the Memorandum and Articles of Association. MDU Services Limited, registered in England 3957086. Registered Office: One Canada Square, London E14 5GS