

Guidance on indemnity

Standard 1.8 of *Standards for the Dental Team* states:

'You must have appropriate arrangements in place for patients to seek compensation if they suffer harm'

All dental professionals must, by law, have an indemnity arrangement or insurance policy in place. This is so that any patient who suffers harm can recover any money they might be entitled to through compensation, in the event of a successful claim.

Indemnity declaration

When you register with the GDC, and when you renew your registration each year, you will be asked to

- confirm that you have indemnity or insurance arrangements in place; or
- confirm that you will have indemnity or insurance arrangements in place by the time you start practising.

It is important to be sure that your indemnity or insurance policy, or the policy you are arranging, permits you to undertake all of the tasks that you do at all of the locations you work in. You can seek advice from potential providers, your professional association or your employer, who can help you decide what you need.

Making a false declaration to the GDC is a serious issue. If you declare to the GDC that you have appropriate indemnity or insurance in place and this is found to be false, this is likely to be considered as a fitness to practise matter. If you are covered under someone else's indemnity or insurance policy (for example your employer's) it is your responsibility to check this before making the declaration.

You may, at some point, be asked to provide evidence that you have indemnity or insurance in place to the GDC.

Types of indemnity or insurance

As long as your indemnity or insurance would enable a patient to claim compensation if this were ever necessary, it is up to you to decide which type of cover would be the most appropriate to suit your needs.

Guidance on indemnity

The following types of indemnity or insurance are recognised by the GDC:

- Dental defence organisation membership – either your own membership or as part of your employer's membership;
- Professional indemnity insurance held by you or your employer (including indemnity insurance provided by your professional association);
- NHS indemnity.

We do not require you to have your own policy and / or defence organisation membership. However, if you are relying on arrangements made by your employer, it is still your responsibility to make sure that you are covered for all the locations where you work and all the tasks that you do.

You must not make any assumptions about whether or not you are covered by your employer's arrangements – you must always check as you will have to provide proof of your indemnity or insurance if the GDC asks to see evidence, if a patient decides to make a claim against you, or in the event that a complaint about your fitness to practise is made to the GDC.

Whilst we do not require you to have your own policy and / or defence organisation membership if your indemnity or insurance is provided by your employer, you might decide it is a good idea to do so. As well as protecting you in the event of a patient claim, the defence organisations also offer advice and support; particularly during fitness to practise investigations, inquests and disciplinary investigations. Other policies (including those offered by some of the professional associations or employers) also provide these benefits.

Dental Technicians

Dental technicians must ensure that they have indemnity or insurance for all the tasks that they do.

In some cases, technicians who have no direct contact with patients, may be covered by their workplace's insurance policies – such as Product Liability Insurance. However, such policies may not be protect you if you do something which leads to a fitness to practise allegation or a disciplinary process.

Dental technicians who are relying on their workplace's policy must assure themselves that they are appropriately covered for all of the tasks that they are doing.

You can seek advice from potential providers and your professional association who can help you decide what you need.

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When no indemnity or insurance is needed

Only a very small number of dental professionals do not require any indemnity or insurance, including those who are not working and those who work in completely non-clinical roles such as teaching (and whose employers do not require them to have indemnity or insurance). If you are not working, you need to be sure that patients can claim if a problem arises from when you were working.

If you were challenged about this, you would need to be able to explain why you did not require any indemnity or insurance, and that you had reached the conclusion on a reasonable basis.

You must make sure you keep the position under review and take appropriate action if circumstances change.

If your situation changes (e.g. you take an extended break, or retire from clinical practice) or your arrangements change (e.g. because you move from an insurance-only policy approach to membership of a defence organisation), then you must make sure that you understand the legal implications of the changes and take appropriate steps to protect patients whose current or future claims may be affected.

In other words, you must make sure that patients can make a claim even when your indemnity or insurance has lapsed. For insurance products, this means you must ensure that you have access to extended reporting benefits (run-off cover).

Effective from 15 June 2016