

July 2021

MPS response to the Office of the Lord Chief Justice Consultation on Draft Clinical Negligence Protocol and Practice Directions

Medical Protection Society (MPS) welcomes the opportunity to comment on the Draft Clinical Negligence protocol and Practice Directions from the Office of the Lord Chief Justice.

MPS is the world's leading member-owned, not-for-profit protection organisation for doctors, dentists and healthcare professionals with over 300,000 members around the world, more than 8,000 of which are in Northern Ireland. Our in-house experts assist members with the wide range of legal and ethical problems that can arise from their professional practice.

This consultation is particularly relevant to us since membership to MPS provides members with the right to request indemnity for claims arising from professional practice. We manage claims for clinical negligence brought against GPs, private doctors and dentists.

Response

MPS welcomes the development of this Draft Protocol and Practice Directions as it enhances and makes changes to Protocol to address some of the practical issues which have arisen in practice aiming to make the process more agile allowing for earlier resolution of claims.

We believe the draft Protocol gives clear guidance and in effect a blueprint to running a clinical negligence action which is invaluable to all practitioners and should be a significant guide for those who do not specialise in this field.

In our view, the addition of a practice direction on expert evidence specifically in the context of clinical negligence is particularly positive and it ensures that practitioners and experts have complete clarity on the professional obligations of experts.

MPS understands that the Protocol provides for costs sanctions on a discretionary basis, and in practice, costs sanctions are rarely imposed. Given the Protocol and associated documents give clear guidance to practitioners, we would encourage the Courts to consider imposing costs sanctions where failure to comply with the Protocol leads to unnecessarily protracted actions, with the costs consequences which that leads to, together with the additional stress it causes to all those involved in the litigation, including doctors, patients and their families.

About MPS

MPS is the world's leading protection organisation for doctors, dentists and healthcare professionals with more than 300,000 members around the world.

Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This can include clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.

MPS is not an insurance company. We are a mutual non-for-profit organisation and the benefits of membership of MPS are discretionary as set out in the Memorandum of Articles of Association.

Contact

Should you require further information about any aspects of our response to this consultation, please do not hesitate to contact us.

Patricia Canedo

Policy and Public Affairs Manager

patricia.canedo@medicalprotection.org



The Medical Protection Society Limited
Level 19, The Shard
32 London Bridge Street
London SE1 9SG
United Kingdom

Tel: +44 (0)20 7399 1300

Fax: +44 (0)20 7399 1301

info@medicalprotection.org

medicalprotection.org

The Medical Protection Society Limited (MPS) is a company limited by guarantee registered in England with company number 36142 at 33 Cavendish Square, London, W1G 0PS. MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association. MPS is a registered trademark and 'Medical Protection' is a trading name of MPS.