

For immediate release

Opportunity to deliver greater savings to NHS through legal fee capping scheme should not be wasted

21 April 2017: A bold decision from Government on the clinical negligence cases that would be subject to the proposed cap on legal fees could result in greater savings to the NHS and it is an opportunity that should not be wasted, a leading medical protection organisation said today.

The Government consultation on the introduction of fixed recoverable costs for lower value claims – which aims to stop lawyers charging disproportionate legal costs – has proposed a fixed cap on the legal fees that can be charged for cases up to the value of £25,000 in England and Wales. This is expected to result in £45million savings to the NHS a year.

The Medical Protection Society (MPS) said it supports the proposals in principle but feels they do not go far enough. It said the scheme could facilitate even greater savings at a time when the NHS budget is under huge financial pressure, by including cases up to £250,000 in the scheme. It called on Government to make a bold decision on the threshold and ensure the opportunity for savings, and a fairer system, is not wasted.

MPS, which supports 300,000 doctors, dentists and other healthcare professionals, also stressed that a cap on legal fees would need to be one of a number of legal reforms if the spiralling cost of clinical negligence to the NHS and society is to be controlled.

Emma Hallinan, Director of Claims at the Medical Protection Society, said: “We fully support the introduction of mandatory fixed recoverable costs for claims of clinical negligence.

“In lower value claims it is not unusual to see lawyers' costs exceed the compensation awarded to claimants. As an example, in a recent case involving a delayed diagnosis which settled for £4,000, legal costs of £35,263 were sought. This is simply not right.

“We do however question the £25,000 threshold proposed by Government. While we understand the argument for not capping legal costs for the most expensive and complex claims, we believe it is appropriate and viable to include claims up to £250,000. Disproportionate legal fees are still a significant issue for claims up to this value – setting the threshold at £25,000 would help, but the financial benefits to the NHS and the taxpayer would be greater if the threshold were set at a higher level.

“The NHS paid out £1.5bn in clinical negligence costs in 2015/16, with legal costs accounting for 34 percent of that bill. This scheme presents an opportunity to create a more proportionate, fairer system while generating savings to the NHS which can be used to deliver front line care. It is an opportunity that should not be wasted.

“We urge Government to be bold when making its decision on the threshold. Difficult decisions about spending in the NHS are made every day, and how we approach the spending of NHS funds on lawyer fees must be one of them.”

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About MPS

The Medical Protection Society Limited (“MPS”) is the world’s leading protection organisation for doctors, dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Membership provides access to expert advice and support together with the right to request indemnity for complaints or claims arising from professional practice.

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.

Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations. 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.