

**Consultation on Rules for professional indemnity**

A consultation on proposed amendments to the Health and Care Professions Council (Registration and Fees) Rules 2003 related to professional indemnity.

**Please note the proposed amendments to these Rules do not apply to social workers in England.**

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## 1. Introduction

- 1.1 We are the Health and Care Professions Council (HCPC). This consultation seeks the views of stakeholders on proposed amendments to the Health and Care Professions Council (Registration and Fees) Rules 2003 ('the Rules').
- 1.2 These amendments are about implementing the statutory requirement for our registrants (other than social workers in England) to have a professional indemnity arrangement in place as a condition of their registration with us. The arrangement must provide appropriate cover – this means an arrangement which provides cover appropriate to a registrant's own practice, taking into account the nature and extent of its risks. This requirement was introduced by the Health Care and Associated Professions (Indemnity Arrangements) Order 2014 ('the Indemnity Order') on 17 July 2014.
- 1.3 The proposed amendments, if implemented, would mean that we would be able to ask registrants and applicants to complete declarations and provide information about their professional indemnity arrangements. We would also be able to take appropriate action where a registrant did not have a professional indemnity arrangement in place or one which did not provide appropriate cover, or where a registrant failed to provide information when required to do so.
- 1.4 We have published guidance and frequently asked questions on our website about this requirement.<sup>1</sup>
- 1.5 This consultation may be of interest to registrants who are affected by these proposals; professional bodies; and employers.
- 1.6 The consultation runs from **Friday, 26 September 2014** to **Friday, 31 October 2014**.
- 1.7 **Please note that the proposed changes to our Rules will not apply to social workers. This is because this requirement has been introduced by the UK Government to enforce European legislation which applies to all the other professions registered by us but does not apply to social workers.**

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<sup>1</sup> For further information, please see our website: [www.hcpc-uk.org/registrants/indemnity/](http://www.hcpc-uk.org/registrants/indemnity/)

## **2. About the HCPC**

2.1 We are a regulator and were set up to protect the public. To do this, we keep a register of health and care professionals who meet our standards for their professional skills and behaviour. Individuals on our register are called 'registrants'.

2.2 We currently regulate 16 health and care professions.

- Arts therapists
- Biomedical scientists
- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

### **3. About professional indemnity**

#### **A statutory requirement**

- 3.1 In July 2014, legislation was introduced which means that all registrants (other than social workers in England) must have a professional indemnity arrangement in place as a condition of their registration with us. The arrangement must provide 'appropriate cover' – this means an arrangement which provides cover appropriate to a registrant's own practice, taking into account the nature and extent of its risks.

#### **Meeting the requirement**

- 3.2 Many registrants will work in an employed environment, for example, for the National Health Service (NHS), a local authority or in the independent sector, where their employer will indemnify them and / or they will have already made their own professional indemnity arrangements. This means that many registrants already meet this requirement and will not have needed to take any further action.
- 3.3 Registrants can meet the requirement through one or more of the following.
- A professional indemnity arrangement through their employer.
  - A professional indemnity arrangement as part of being a member of a professional body, trade union or defence organisation.
  - A professional indemnity arrangement obtained directly through an insurer.
- 3.4 We have published separate guidance and frequently asked questions on our website to explain more about what this requirement means for registrants and applicants for registration.<sup>2</sup>

#### **Checking that an arrangement is in place**

- 3.5 Once Rules are agreed and in place, we will ask registrants at the point they renew their registration with us (every two years) to confirm that:
- they have a professional indemnity arrangement in place which provides appropriate cover; or
  - if they are not practising at the time of their renewal, that they understand the requirement and will have such an arrangement in place when they begin to practise.

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<sup>2</sup> For further information, please see our website: [www.hcpc-uk.org/registrants/indemnity/](http://www.hcpc-uk.org/registrants/indemnity/)

- 3.6 Applicants for registration will not need to have a professional indemnity arrangement in place when they apply. However, in future they will be asked to confirm that they understand the requirement to have a professional indemnity arrangement in place which provides appropriate cover and that they will have such an arrangement in place when they begin to practise.
- 3.7 A registrant or applicant who was unable to complete the declaration would be unable to renew their registration or become registered with us.

## 4. Our consultation proposal

4.1 We are proposing to amend the Rules as part of implementing the Indemnity Order.

4.2 The amendments are in line with the approach we have set out in our guidance: 'Professional indemnity and your registration'. We consulted on a draft of this guidance in 2013. The proposed changes to our Rules are about implementing the policy approach outlined in that guidance, rather than adding any additional requirements.

4.3 If implemented, the amendments to the Rules would mean the following.

- A requirement for a registrant to inform the Registrar if for any reason they cease to have in place a professional indemnity arrangement which provides appropriate cover. However, registrants do not need to tell us about routine changes, such as a change of provider or not having an arrangement in place because they are no longer practising.
- A power for the Registrar at any time to send a notice to a registrant asking them to provide such evidence and information as might be necessary to demonstrate that they have an indemnity arrangement in place which provides appropriate cover. We propose that the notice should provide at least a seven day period in which the registrant would be required to respond.
- We anticipate that, outside of registration renewal, we may use the power described above if, for example, there are concerns that a registrant may not have a professional indemnity arrangement in place or that it may not provide appropriate cover.
- If the evidence and information provided in response to a notice does not demonstrate that a registrant has an indemnity arrangement in place which provides appropriate cover, or where a registrant fails to respond to a notice within the period specified, the Registrar may remove the name of the registrant from the Register. We anticipate that, outside of registration renewal, this power is likely to be used only in very few instances.
- The main way in which we will ensure compliance, however, will be via registrants and applicants completing a declaration at the point when they either renew or apply for registration with us (see paragraphs **3.5** to **3.7**). Registrants will continue to be provided with approximately three months in which to complete their renewal. We will not routinely ask registrants to send us certificates or other evidence of their professional indemnity arrangements.

- Someone administratively removed from the Register (as a result of not completing the declaration or because of non-compliance) would be able to apply for registration again, subject to completing an application form, paying the registration fee and demonstrating they meet the conditions of registration.
- Administrative removal is very different from being struck off. 'Striking off' is a sanction as a result of our fitness to practise process. Someone struck off the Register is unable to apply for restoration to the register until at least five years have elapsed. We may consider taking fitness to practise action in more serious cases, for example, those that involve dishonesty.

4.4 A copy of the proposed amendments to our Rules can be viewed alongside this consultation document on our website.<sup>3</sup> A copy of our existing Rules is also available from our website.<sup>4</sup>

4.5 Subject to the outcomes of the consultation and the parliamentary process, we anticipate that the Rules will be in place from early 2015-2016.

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<sup>3</sup> For further information on the proposed amendments to our Rules, please see our website: [www.hcpc-uk.org/aboutus/consultations/index.asp?id=176](http://www.hcpc-uk.org/aboutus/consultations/index.asp?id=176)

<sup>4</sup> For further information on our existing Rules, please see our website: [www.hpc-uk.org/aboutus/legislation/rules/](http://www.hpc-uk.org/aboutus/legislation/rules/)

## 5. How to respond to the consultation

5.1 The statutory requirement which affects most of our registrants is now in place and we have previously consulted on guidance which we have now published. As a result, we are consulting on our proposed Rules for a shorter five week period. This will ensure that we can introduce the new declarations for registrants and applicants within a reasonable timeframe.

5.2 We welcome your comments on any aspect of the proposals set out in this document.

5.3 You can respond to the consultation in the following ways.

- By completing our easy-to-use online survey:  
[www.research.net/s/consultationonprofessionalindemnityrules](http://www.research.net/s/consultationonprofessionalindemnityrules)
- By emailing us at: [consultation@hcpc-uk.org](mailto:consultation@hcpc-uk.org)
- By writing to us at the following address.

Consultation on Rules for professional indemnity  
Policy and Standards Department  
Health and Care Professions Council  
Park House  
184 Kennington Park Road  
London  
SE11 4BU  
Fax: +44(0)20 7820 9684

5.4 We do not normally accept responses by telephone or in person. We normally ask that consultation responses are made in writing so that we can accurately record what the respondent would like to say. However, if you are unable to respond in writing, please contact us on +44(0)20 7840 9815 to discuss any reasonable adjustments that would help you to respond.

5.5 Please complete the survey or send us your response by **31 October 2014**. We look forward to receiving your comments.

5.6 **Please contact us to request a copy of this document in Welsh or in an alternative format.**

5.7 Once the consultation period is completed, we will analyse the responses we received. We will then publish a document which details the comments received and explains the decisions we have taken as a result. This will be published on our website.



5.8 If you prefer your response not to be made public, please indicate this when you respond.