

The Medical Defence Organisation (MDO) Voluntary Code of Practice

Scope

'The Code' is a voluntary code, to which any organisation may be a signatory, providing they meet the following criteria:

A membership organisation providing doctors, as well as dentists and/or any other group or groups of regulated healthcare professionals with access to discretionary indemnity for matters arising from their professional practice in the UK, and where the organisation also manages and administers a mutual-fund from which funds may be called upon for that purpose.

In signing up to this code Medical Protection Society commits itself to the following:

Principle No.1

Corporate governance

1. Notwithstanding our commitments to this Code of Practice (*'the Code'*), we will follow a recognised code of corporate governance, such as that published by the *Association of Financial Mutuals* or the *Wates Corporate Governance Principles*.
2. We will report against how we observe such a code, identifying and explaining any areas in which our adopted governance model deviates from full compliance.

Principle No.2

Fair treatment of members

1. We will publish a *'Fair treatment of members' policy* setting out the rights of members and how they can expect to be treated by us in respect of the services and benefits provided to them, as well as through communications, complaints and our general approach to compliance and corporate governance.
2. We will publish a clearly defined complaints process for members.
3. These statements, in addition to any other suitable documents that we believe relate to the general nature of our relationship with our members, shall be taken to represent our *'Fair treatment of members' policy*.

Principle No.3

Scope of benefits available to members

1. We will publish a clear statement of the benefits offered to members, including information on the types of matters where members are likely to be assisted, and where they are not.
2. We also commit to publish information pertinent to the factors that will have a bearing on assistance decisions.
3. We will make this information clearly and readily accessible for all our members – both current, past and prospective.

Principle No.4

Decision making

1. All requests for assistance are considered on their individual circumstances. Notwithstanding the provisions of this Code, the Code does not – and cannot – fetter the exercise of discretion.
2. All decisions will be made in line with established procedures to ensure due process is followed in assessing requests for assistance and exercising discretion.
3. In circumstances where there is consideration as to whether assistance might not be granted to a member, that member will be made aware and given the opportunity to provide any further information they consider relevant to support their request before the decision is final.
4. We will ensure that there is robust governance for all decisions relating to a request for assistance and will publish details of how such decisions are made under our constitution.
5. If a decision is taken to decline a member's request for assistance with a clinical negligence claim, we will communicate that to the member in a timely manner and provide supporting information to enable the member to understand the basis for the decision taken.
6. On receipt of notice of such a decision, we will ensure members have ready access – should they wish - to our own, clearly defined complaints process (Principle 2, [2]).
7. The outcome of the internal complaints process will be communicated to the member in a timely manner and, where a complaint is not upheld, an explanation will be provided.

Principle No.5

Independent Complaints Review Service (ICRS)

1. We commit to establish and maintain an independent review service – *the Independent Complaints Review Service* ('the ICRS'). The ICRS will be open to members who have exhausted the internal complaints process (Principle 2, [2]; Principle 4, [5-7]) in respect of specific decisions we have taken in relation to our members.



2. We will ensure that our members are informed of their rights to refer matters to the Independent Complaints Review Service; as a minimum, our members in the UK will have the right – after they have exhausted the internal complaints process – to refer a decision not to accept a request for assistance with an indemnity for a clinical negligence claim, to the ICRS.
3. Where a decision falls within the purview of the ICRS, we commit to cooperating with the process in a constructive, transparent and timely fashion.
4. We commit to carefully and fully consider all determinations of the independent reviewer. We will publish anonymised information as to the decisions of ours that have been referred to the ICRS, and the number of instances in which the independent review has:
 - a. endorsed our initial decision in whole or in part;
 - b. recommended a decision be referred back to the organisation for further review, and the organisation has subsequently agreed to assist; and
 - c. recommended a decision be referred back to the organisation for further review, but the organisation has maintained its original decision.
5. Decisions taken following an ICRS recommendation to re-consider a questioned decision will be communicated both to the member and the ICRS in a timely manner.
6. The existence of the internal complaints processes and the ICRS does not preclude a member from bringing a complaint before any other established statutory regulatory authority with the relevant jurisdiction, including - but not limited to – the Information Commissioner, Solicitors Regulation Authority or where appropriate the Financial Services Ombudsman.

Principle No.6

Financial attestation

1. Notwithstanding our being subject to independent audit – a process which includes confirmation that we are a ‘going-concern’ in accordance with accepted accounting principles – we commit to further demonstrate our longer-term funding adequacy and corporate resilience.
2. As a minimum, we will include, in our audited Annual Report and Accounts, a funding adequacy statement. The statement shall provide confirmation of the funding position of the company.
3. The statement will include an assessment of the current ability of the company to meet the commitments made to members, both in terms of requests for assistance where discretion has been exercised to assist [recognised liabilities] and anticipated future requests for assistance with matters which will become recognised liabilities if discretion is exercised to grant assistance.
 - a. As a minimum requirement, Code compliant organisations, on reporting the indemnity provision and Incurred-But-Not-Reported (IBNR) estimates, will include therein:
 - i. Indemnity amounts (including an allowance for inflation)

- ii. Claims handling expenses and legal costs (both own and claimant)
 - iii. Reinsurance recoveries (net of an allowance for bad debt)
 - iv. Discounting benefit based upon a risk-free discount rate
- b. These elements will be included in Code compliant organisations annual report and accounts – either in the core accounts, OR, within the notes to the accounts.
4. Financial estimates included in, or underpinning, the statement will be accompanied by the key assumptions upon which they are based.
 5. Code compliant organisations will provide written confirmation in their annual report and accounts that indemnity estimates have been subject to an external review and the indemnity estimates represent a true and fair view. External review means an independent actuarial review of the estimates. This may be by the actuarial function of the Code compliant organisation’s external auditors, as part of their audit.

Principle No.7

Statement of adherence

1. We will publish, on an annual basis – both online and in our Annual Report and Accounts – a declaration confirming our adherence to the Code, with an explanation of how we have met its undertakings.

Commencement

‘The Code’, and the undertakings on its signatories, shall only apply when the entirety of an occurrence, incident, request for assistance and decision, is taken after the date of commencement – 6 January 2025.