



DEPARTMENT OF HEALTH
PORTLAND COURT
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GTN

Your reference

Our reference

General Managers of:
Regional Health Authorities
District Health Authorities
Special Health Authorities

2 November 1989

Dear General Manager

NHS INDEMNITY FOR MEDICAL NEGLIGENCE

1. You will wish to be aware that the Minister for Health has today announced that from 1 January 1990 health authorities will take financial responsibility for the negligent acts of their medical and dental staff in the course of their NHS employment. Health authorities are vicariously liable for the negligence of their employees, but at present medical and dental staff are covered through their subscriptions to a medical defence organisation (MDO).

2. The Health Departments consulted health authorities and others about this proposed indemnity scheme earlier this year and on 25 July the then Minister for Health announced the Government's intention to introduce the new arrangements with effect from 1 January 1990. The new arrangements will apply to claims for damages (in respect of negligent acts) which were initiated before 1 January 1990 as well as to new claims; this assumption of financial responsibility for existing claims is subject to agreement with the MDOs on the allocation of part of their reserves to meeting the liabilities which will be taken over by health authorities. The new arrangements will apply to the hospital and community health services only.

3. Until 31 December 1989 medical and dental staff remain contractually obliged to subscribe to a recognised defence organisation, and subject to certain conditions health authorities should re-imburse two-thirds of the subscriptions. There is some evidence that some practitioners have not renewed their subscriptions in the expectation of the introduction of the indemnity scheme. Health authorities should take steps as necessary to remind their medical and dental staff of their contractual obligation and of the possible consequences of not having cover. Whilst a health authority would be financially responsible after 1 January 1990 for negligence occurring in the course of NHS employment, it would not provide cover for non-HCHS work.

E.R.

4. The Department will in due course issue more detailed guidance to health authorities on the operation of the new arrangements, including the handling of both existing and new claims.

5. EL(89)P 111 issued on 29 June is cancelled. This letter will be cancelled on 1 November 1993 unless notified separately.

Yours sincerely

David Walden

D P WALDEN
Assistant Secretary

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