



125
YEARS
LEADING
THE WAY

2010/11

Member Guide

Summary of benefits of MDU membership

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Welcome to your guide to the services the MDU provides for its members

2010 is a special year for the MDU. It marks the 125th anniversary of the MDU's foundation. Established in 1885 as the world first medical defence organisation with the purpose of defending the rights of doctors, we have stayed true to this goal and our commitment today to you remains:

- to provide the best possible defence and medico-legal expertise
- to deliver our service to you via our doctors, lawyers and claims specialists who have unrivalled expertise and an understanding of and empathy with the experiences of the profession.

Where 2010 differs from 1885 is in the extent of the multiple jeopardy potentially faced by members from a single incident – a complaint, a claim, a PCT inquiry, an inquest, a GMC inquiry, a criminal investigation etc. Our ability to understand the issues involved both from a medico-legal and emotional point of view is, we believe, essential to obtaining the best outcome for our member. That is why we believe “doctors for doctors” is so important.

I am always pleased to hear of members' experiences of the MDU either by letter or in person. It is encouraging that the organisation is held in high esteem and the support we provide at times of need is appreciated so much.

Fortunately in any one year, most members will not need to call on the MDU because of crisis and so we also provide education and risk management support which can be accessed at any time. These services are described in this booklet and the latest materials can be accessed by visiting our website the-mdu.com

Please take time to review the range of services we offer to ensure you make the most of your MDU membership.

Yours sincerely



Dr Christine Tomkins

BSc (Hons) MBChb (Hons) DO FRCS FRCOphth MBA FFFLM
Chief executive

Doctors for doctors

Practising medicine is becoming ever more regulated with new hazards facing healthcare professionals seemingly on a daily basis.

You spend your life helping others, but you need to have someone you can turn to, who can support you with these challenges.

Today, more than ever, membership of the MDU provides you with the support you need.

Defence

You have the best possible medical and legal expertise on your side.

The MDU resolves around 4 out of every 5 GMC complaints made against its members without proceeding to a Fitness to Practise panel hearing*

However good a practitioner you are, there is always the risk that something can go wrong, or at least that somebody else believes it has! The biggest threat to your future well-being can be a reference made to the General Medical Council. Where once this might have arisen only after a series of issues, now it could come from just one incident.

Service

As an MDU member, you have access to the largest and most experienced team of dedicated medico-legal advisers throughout the UK, whose knowledge has been refined by taking 25,000 calls annually from our members. In 2009, over 95% of calls were put straight through to an adviser, and in the remaining proportion, the member was called back within a few minutes.

The MDU's on-call medico-legal telephone service is available to you 24 hours a day, 7 days a week – giving you support when you need it most.

Insurance & Discretion

The MDU, is the only UK mutual defence organisation offering access to a strong combination of traditional discretionary benefits in addition to the security of an insurance contract.

*based on analysis of cases handled by the MDU in-house legal team and considered by GMC Case Examiners in 2007 and 2008.

Support when there is a claim against you

Should an incident turn into a claim, you can have confidence that the MDU can put in place a team of experts, comprising a doctor, a claims expert and, if appropriate, a lawyer to provide the very best defence for you.

We pride ourselves on keeping our members fully involved and informed on the development of a claim, and also on not settling a case without the consent of our member.

This is not just words - during the period 1996-2006, we successfully defended over 70% of claims brought against our members.

Risk management support and advice to help you to avoid common medico-legal pitfalls

From our experience of handling complaints and claims against our members for 125 years, the MDU has built up knowledge of the common pitfalls which lead to problems. We provide you with a range of ways to obtain this information:

- through our medico-legal publications on issues such as complaints and confidentiality
- through articles and over 100 case histories contained on our website the-mdu.com
- through the presentations our staff provide in hospitals and by request in GP practices.



Support with your professional education

Many MDU members are in the process of building their careers and the MDU is here to provide practical support with education and training. Among the wide range of resources we offer are:

- in the medical schools, our acclaimed revision courses feature lecturers who are leading experts in the areas of surgery, medicine and paediatrics. Year after year, graduates continue to recommend our courses to students approaching their final exams
- junior doctors studying for royal college examinations, can access an attractive MDU member discount offer with examdoctor, an online revision resource which provides a wide range of practice questions with high resolution clinical images, performance analysis and tailored coaching
- the MDU's medical ethics and law workshops have proved popular with doctors at all levels who face ethical dilemmas or are interested in exploring issues in some detail
- the MDU's communication skills for doctors courses are also relevant for doctors at all levels wanting practical advice on managing communication in everyday clinical situations
- a course and support materials for those preparing for their first consultant position, explaining the range of challenges of their enhanced role and how to handle them, including managerial and risk management issues
- doctors approaching interviews for specialty training, GP vocational training scheme or consultant posts can benefit from a discounted rate for MDU members with ISC Medical, a specialist provider of interview skills coaching, guidance on the application procedure and CV preparation services.

Please note: The MDU always seeks to offer attractive benefits as part of membership and as such, from time to time, may add, withdraw or amend benefits at its discretion. Visit the-mdu.com for the latest information of the benefits included in membership.

Summary of benefits of MDU membership

MDU membership entitles its members to certain benefits. These fall into three categories:

1. **General benefits:** available to all members.
2. **Contractual benefits:** insurance coverage, from authorised insurers subject to the terms and conditions of the contract, available to most paying members.
3. **Traditional discretionary benefits:** assistance which members may request within the terms of the Memorandum and Articles of Association of the MDU.

1. General Benefits

Among the services available to current members of the MDU are:

1. Right to vote on Resolutions at the MDU's AGM# (not including associate members).
2. Right to receive the Annual Report and Accounts# (not including associate members).
3. Access to the MDU's publications such as The Journal and a range of advisory publications on subjects such as complaints and confidentiality.
4. Access to the comprehensive case history and advisory centre within the MDU website – the-mdu.com
5. Access to the MDU's education services, including on-line examination preparation services, courses and books at discounted prices. To find out more about these offers visit the MDU website – the-mdu.com

Please note this service is available online – you can enrol at the MDU's website the-mdu.com

2. Contractual Benefits

The MDU is the only UK medical defence organisation (MDO) to provide individual members with a professional indemnity policy. The policy is issued by SCOR UK Company Limited and International Insurance Company of Hannover Limited. This provides, in the event of a claim against the member for clinical negligence, up to £10 million indemnity for any one claim and the total of all claims annually, as long as the claim falls within the terms and conditions of the policy. The cover is provided on a claims made basis – that is it covers claims incurred while the individual was a member of the MDU which are reported while the policy is still in force. The policy does not cover:

- claims that arise from an incident at a time when the individual was not a member of the MDU
- claims that arise from an incident at a time when the individual was temporarily or permanently retired from professional practice, which may include when an individual is on maternity leave or taking a short term break from practice. Please note that where a short term or maternity leave break falls within a policy year, an incident may still be reported under the policy during this time so long as the incident arose during a time when the individual was a member of the MDU and not on a break
- claims that arise from an incident while the individual was a member of the MDU, but are not reported until after they cease to be a full member of the MDU (termination of membership will terminate all benefits under the insurance policy, although the member can seek assistance with such a claim on a discretionary basis – see section 3 on page 10).

Cover under the policy is limited to professional clinical or medical services provided in the UK, but cover is included for claims arising from Good Samaritan acts anywhere in the world.

A copy of the policy wording is available on the MDU website:
the-mdu.com

Regulatory control for peace of mind

You have the added peace of mind in knowing that the insurance policy provided is subject to exacting standards of service and financial control set by external regulators.

Members' policies are arranged by MDU Services Limited, a company owned by the MDU, which acts as an independent intermediary with an agency for SCOR UK Company Limited, International Insurance Company of Hannover Limited and the MDU, and is regulated by the Financial Services Authority (FSA). FSA rules, by which MDU Services abides, set standards to ensure we act properly in the way we sell and administer the policies provided to MDU members. SCOR UK Company Limited and International Insurance Company of Hannover Limited are also regulated by the FSA.

Expert, consultative claims handling

In the unfortunate event of your having a claim under the policy, it will be handled by one of MDU Services' experienced in-house teams. Teams include doctors, insurance experts and solicitors, if needed. We believe in keeping you informed on the progress of the claim as we know just how stressful the experience can be.

How to report a claim under the professional indemnity policy

Often the first indication you will have of a claim for compensation being made against you is when you receive a letter from a patient or his solicitor. Alternatively you may receive Court papers. It is important that you act quickly to report the claim to us as we usually have only 12 weeks from receiving a detailed Letter of Claim to provide a full detailed response. In order to report a claim to MDU Services:

- contact the 24-hour medico-legal advisory helpline on **0800 716 646** and report that you have received notification of a claim against you. The adviser will arrange for you to be provided with a checklist of the documents we require – which will be based on the list below
- immediately afterwards please write to
Claims Manager
MDU Services Limited
230 Blackfriars Road
London SE1 8PJ

including the following:

- confirmation that you would like our assistance with the claim
- your consent for us to act on your behalf in this matter
- the date on which you received the solicitor's letter or request for compensation or Court documents
- a statement formally confirming that you have sent photocopies of all the records relevant to the case in your possession to MDU Services and your consent that MDU Services may disclose these records to the Claimant's solicitors, if appropriate
- full details of any other practitioners or other persons involved in the sequence of events surrounding the claim
- any other information you feel relevant to the claim.

We also need you to send to us copies of several documents including:

- the solicitor's letter or request for compensation or Court documents
- all records in your possession relating to the patient which may include:
 - a complete photocopy of the original records on single sided A4 sheets
 - a printout of computerised records
 - copies of relevant entries in the appointment book or message book
 - X-rays or scans
 - any other relevant records.

Please note it is essential that documents are not altered or amended in any way, as this may severely weaken your defence and could result in other serious adverse consequences for you such as disciplinary action.

We are aware of how upsetting it can be for a member to receive a claim. The sooner we are informed and receive these documents the sooner we are able to begin to assist you.

Out of pocket expenses

Please note, in order to keep the costs of subscriptions low for the benefit of all members, we do not meet the costs incurred by you in attending court, hearings or meetings with the MDU relating to your case. Neither can we meet the costs of any locum cover you may need to arrange for you to attend one of the above events.

3. Discretionary Benefits

In addition to insurance benefits, individual members may seek assistance from the MDU for a wide range of discretionary benefits. The MDU is the only UK MDO to offer this attractive combination. Such benefits are at the absolute discretion of the Board of Management, are not provided as a right and are all subject to the Memorandum and Articles of Association. You have a right to request assistance and to have that request fairly considered.

Summary of discretionary benefits

In general, the MDU can assist with medico-legal problems that arise from the normal practice of clinical medicine. Below is a list of examples of benefits which the MDU can provide:

- 24 hour telephone advice on the ethical and legal aspects of clinical practice provided by specially trained doctors, dentists, nurses and lawyers
- support in preparing a case and representation at PCT and NHS Trust (or Health Board) disciplinary hearings related to clinical practice*
- support in responding to a complaint and representation at a GMC (or NMC/HPC) hearing relating to matters of clinical practice and personal misconduct
- support with CHRE referrals to the High Court as a result of a GMC (or NMC/HPC) decision
- support with NCAS investigations
- support in preparing a response to patients' complaints
- support with criminal investigations and proceedings arising from clinical practice
- support in preparing a case and representation in a Coroner's Court
- support with local, regional or national inquiries into the clinical management of patients
- risk management advice in connection with your practice
- advice and representation in dealing with press or media enquiries
- assistance (which can include assistance for personal representatives and beneficiaries) with claims arising from clinical incidents which occurred while you were an MDU member but not reported until after you have left the MDU, have retired from clinical practice or after your death. This assistance can include indemnity against a legal liability to pay compensation, claimants' legal costs and defence expenses
- help with Good Samaritan acts worldwide for retired and other non-paying members.

*Where the presence of MDU representation is permitted under local procedures

In order to discuss or report any matter you wish to have considered for discretionary assistance, please contact the MDU's 24-hour freephone medico-legal advisory helpline on 0800 716 646. We encourage you to contact us as soon as possible to discuss any concerns you have over an incident.

Eligibility to request discretionary benefits

Members of the MDU are eligible to request assistance, which is at the absolute discretion of the Board of Management, but the following criteria are examples of those which may be taken into account when determining whether assistance will be provided or continued:

1. You should have been a full member of the MDU when the incident took place.
2. You should have been registered with the GMC or alternative appropriate registration body to perform the clinical duties you undertook and have had the required training and experience for the activities.
3. You should co-operate fully with MDU Services and its representatives.
4. You should provide full and accurate information relevant to the case and be truthful at all times.
5. You should have declared the full degree of the nature of your practice, in terms of type and quantity of work to MDU Services and paid the appropriate subscription.

With the exception of Good Samaritan acts, the MDU does not offer assistance with any matter that arises from practice in the USA, Canada, Australia[†], Bermuda, Israel, Hong Kong or Zimbabwe, or for matters over which the courts of those countries have jurisdiction.

[†]For more detail on the MDU's policy in Australia see page 17

Areas where the MDU is unlikely to provide support or representation

The following areas are examples of where it is unlikely that the MDU's discretionary benefits will be provided:

1. Defence of criminal charges arising from activities not related to the normal treatment of a patient (eg assault of a colleague, motoring offences).
2. Matters arising from an admitted and/or proven criminal act.
3. Damages and fines payable for criminal acts.
4. Issues arising from commercial contracts or arrangements.
5. Investigations by competition authorities.
6. Issues arising from failure to achieve necessary educational or training standards (eg failing exams or challenging the outcome of a RITA).
7. Employment disputes or contracts.*
8. Partnership contracts and disputes.*
9. Fee scales and recovery of charges for work performed.*
10. Legal expenses or costs if you pursue a grievance or claim of defamation or discrimination against a third party.
11. Defence of allegations of personal misconduct (as distinct from clinical issues) at PCT and NHS Trust (or Health Board) disciplinary hearings.
12. Any matters arising from any element of your personal private practice where the indemnity for clinical negligence claims is not supplied by the MDU.

*We do not support members in the area of employment advice and associated services and strongly encourage members to join the BMA or other representative organisations in addition to the MDU.

4. Benefits for MDU Members Working Overseas

Training grades working in supervised training posts

Paying members who are in training grades in the UK are entitled to be covered under their professional indemnity insurance policy for work for up to one year in a recognised supervised training post overseas, except in USA, Canada, Bermuda, Israel, Hong Kong, Australia[†] or Zimbabwe where there is no cover provided under the policy.

To qualify for this benefit, you must have the prior agreement of the MDU membership department. You must notify them of your change in work place before you leave to work abroad and as soon as you return. Where appropriate a policy endorsement will be issued to you.

Please note this benefit does not cover clinical work undertaken in a private or unsupervised capacity overseas.

Other members working overseas

Members working overseas (other than training grades as outlined above) are not covered by the professional indemnity insurance policy. However, members may seek assistance on a discretionary basis for work undertaken overseas during a visit of duration less than three months. Typically such work will be deemed acceptable for consideration for discretionary support if it is principally of a teaching nature.

In any event, you must have the prior agreement of the MDU membership department. You should advise them of your plans in advance of your departure and immediately on your return.

With the exception of Good Samaritan acts, the MDU does not offer assistance with any matter arising from practice in the USA, Canada, Australia, Bermuda, Israel, Hong Kong or Zimbabwe, or for matters over which courts of those countries have jurisdiction.

[†]For more detail on the MDU's policy in Australia see page 17

UK members working in Ireland

Paying UK members, who move to work in Ireland, can retain their membership of the MDU, as long as they are registered with the IMC to practise in Ireland. UK-based members who conduct some of their work in Ireland may also be entitled to seek assistance from the MDU for work undertaken in Ireland.

The Professional Indemnity Insurance policy does not cover any work undertaken in Ireland, but members may be entitled to seek assistance on a discretionary basis for their Irish work. Please note that it is unlikely that the MDU's discretionary benefits will be provided for any claims arising from obstetrics whether antenatal, intrapartum or post natal care. However, GPs, who as part of their routine practice undertake ante and post-natal care, may look to the MDU in the usual way should a problem arise. It is not expected that the benefits of membership would be available to GPs undertaking intrapartum care except in an emergency.

In both cases, you must have the prior agreement of the MDU membership department and need to contact them before starting work in Ireland, to outline the type of work that you intend to do, and immediately after ceasing your work there. A higher subscription may be payable depending on the duration and type of work involved.

Members working in Australia

The following applies to members working in Australia.

Under the Medical Indemnity (Prudential Supervision and Product Standards) Act 2003, all clinical indemnity is required, firstly, to be provided on an insured basis and, secondly, to be provided by a general insurer authorised by the Australian Prudential Regulatory Authority (APRA). The policy of insurance provided to MDU members in the UK will not provide cover for MDU members working in Australia.

The impact of this legislation and the solution to this issue for different categories of MDU member are highlighted overleaf.

Training Grades working in Australia

As a result of the legislation in place, members in this category intending to work in Australia should:

1. Check to ensure that the institution you will be working for in Australia will indemnify you in the event of a claim being made against you. This should be the case if you are employed in a non consultant post in a public (state run) hospital. We would recommend that you request confirmation in writing to this effect. If this confirmation is forthcoming then no further indemnity cover should be required for this type of work.
2. If you do not receive confirmation that you will be indemnified by the institution in which you will be working, you should make further enquiries as to the indemnity arrangements required.

If you intend to undertake any work outside of the institution, whether paid or unpaid, for example assisting in a private capacity or in a private clinic, you should obtain indemnity insurance from an authorised Australian insurer.

Whichever of the above applies, please ensure you advise the MDU membership department of your planned visit before you leave and when you return.

Consultant and GP Members

As a result of the regulations, discretionary indemnity assistance is no longer acceptable for work conducted in Australia. Therefore members undertaking work in these categories in Australia should either:

1. Seek confirmation in writing that you will be indemnified by the institution in which you will be working; or
2. Take out appropriate indemnity insurance from an approved Australian insurer.

Whichever of the above applies, please ensure you advise the MDU membership department of your planned visit before you leave and when you return.

All members – Good Samaritan cover

MDU members in the UK with policies have worldwide insurance cover for Good Samaritan acts as part of their standard membership benefits.

This cover is sufficient for claims arising in Australia from Good Samaritan acts you may be called on to perform whether your visit is primarily for a professional or leisure purpose.

Retired members or members without policies can request assistance for claims arising from Good Samaritan acts on a discretionary basis.

Good Samaritan acts means the provision of clinical services related to a clinical emergency, accident or disaster when you are not present in your professional capacity but as a bystander.

5. General Membership Procedures

Refunds

Membership of the MDU is on an annual basis and is normally only terminated at the end of the membership year. Within six weeks of commencing or renewing membership of the MDU, you may request to cancel from inception and receive a full refund. Beyond this period, other than for reasons of sickness, retirement and family leave, the MDU does not give a refund of subscription should you wish to curtail your membership mid year. Due to the uneconomic cost of doing so, refunds will not be made for amounts of less than £10, although you may be able to use an amount of less than £10 as a credit towards your next subscription should you reactivate your membership within the membership year.

Continuation of membership

Approximately three weeks prior to the end of a membership year, you will normally receive an invitation to renew your membership of the MDU and policy, where applicable, for a further year.

Members are requested to respond to this invitation prior to their renewal date, but a period of up to 30 days grace beyond the renewal date is currently offered to allow the member to respond. So long as the member can confirm verbally that no new incident which may give rise to a claim has occurred during the period since the renewal date, then the renewal terms offered by the MDU will be honoured.

If no response is received then the member is erased from membership with effect from the renewal date and sent written confirmation to this effect. A member responding to this notice and wishing to remain may be reinstated within 10 days at the MDU's discretion.

Most MDU members find that the risk of forgetting to pay their annual subscription is removed by arranging to pay either with an annual direct debit or by monthly instalments. To enquire about how to pay by direct debit, contact the membership department.

You are required to keep the MDU up-to-date regarding the nature and extent of your practice at all times, but are specifically requested to inform the MDU as you renew of any change in your activities.

Keeping your MDU membership up to date

It is important that you ensure MDU Services is kept updated with changes in your personal and professional circumstances which may affect your MDU membership.

For example, please do not forget to update us when you move home. If we do not have your latest address you may not receive your renewal documents and could find yourself without membership.

The insurance policy states you must also inform the insurer via MDU Services, without delay, of any changes to the type or amount of work you undertake which may increase or decrease your risk or exposure to risk. (e.g. where you are now conducting considerable private practice work but have previously declared that your practice falls within the NHS system.) If you fail to do so, you may lose your right to make a claim under the policy.

Income based subscriptions

Not all subscriptions are income based but if yours is please read the following information.

Income based subscriptions are based on your net income generated during your membership year. That is:

your gross annual income from all non-indemnified work **minus** **reasonable practice expenses**

The following notes explain what is meant by *non-indemnified income* and *reasonable practice expenses*.

Non-indemnified income

Non-indemnified income is defined as your annual pre-tax earnings from any medical work undertaken where no other form of indemnity is in place, such as NHS indemnity or through an employer's insurance arrangements. This should be the income generated during your membership year.

At the start of your membership year an estimate of your earnings for the forthcoming year is sufficient but you must notify us by the end of your membership year if this proves to be incorrect.

If you are treating NHS patients outside the NHS (for example in a private hospital as part of a waiting list initiative) you should ascertain whether this work is NHS indemnified and, if not, you should include income from this work as non-indemnified income. You should also include income from medico-legal work unless you have opted to pay a separate medico-legal supplement.

Practice expenses

Reasonable non-indemnified practice expenses, if incurred, can be deducted, providing that the expenses do not represent more than 50% of the gross figure and are wholly, exclusively and necessarily incurred for the purpose of clinical practice. Please be aware that you may be required to provide documentation to support the expenses calculations. If you need clarification please call our freephone membership helpline on **0800 716 376**.

6. Service Standards and Complaints

We aim to:

- answer **at least 95%** of telephone calls to our membership helpline directly at normal times and an average of **at least 80%** during peak periods. In 2009, our membership team answered over 99% of calls; around 90% within 20 seconds
- answer **over 90%** of telephone calls to our medico and dento-legal advice lines directly, with the remainder of calls being returned within 2 hours. In 2009, over 95% of telephone calls were directed straight to our advisers.
- answer all claims and case work correspondence within one week
- answer all membership correspondence within two weeks.

Complaints – Insurance policy and claims

If you have a complaint about your insurance policy or an insurance claim, a clear complaints procedure is laid down within the policy. In summary you should first contact the head of membership at:

MDU Services Limited
230 Blackfriars Road
London SE1 8PJ

Complaints we cannot settle may be referred to the Financial Ombudsman Service at:

South Quay Plaza
183 Marsh Wall
London E14 9SR

Complaints – Discretionary support or other matters

If you have a complaint about a matter unconnected to the professional indemnity insurance policy, you should contact the chief executive at

MDU Services Limited
230 Blackfriars Road
London SE1 8PJ

7. Data protection

Protecting patient information

Many members, including general practitioners and consultants working in private practice, will be considered data controllers under the Data Protection Act 1998 and are therefore bound to inform patients about how they will use the data they hold about them.

It would therefore be prudent to inform patients - in practice leaflets and complaints procedures etc - that, should a patient make a complaint, the practice may need to provide information about the patient, and treatment they have received, to insurers or legal advisers.

Help us to help you

In addition, when seeking medico-legal advice from the MDU, please remove or blank out information that would identify or help to identify the patient/s concerned, unless we specifically need the information or we have requested original or copies of patient records.

Providing us with documents that contain personal data about patient/s may delay our ability to respond quickly as we will need to remove patient details from incoming correspondence before passing it on to our Advisory team.

This brochure is intended only as a broad guide to the products and services offered by MDU Services Limited, the DDU, the MDU, SCOR UK Company Limited and International Insurance Company of Hannover Limited. The policies issued by such insurers contain terms, conditions and exclusions.

It is the policy of the MDU that all members and those applying for membership should be afforded equal treatment irrespective of race, gender, age, sexual orientation, disability, religion or belief.

MDU Services Limited (MDUSL) is authorised and regulated by the Financial Services Authority in respect of insurance mediation activities only. MDUSL is an agent for The Medical Defence Union Limited (the MDU). The MDU is not an insurance company. The benefits of membership of the MDU are all discretionary and are subject to the Memorandum and Articles of Association, a copy of which can be found on the MDU website the-mdu.com

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