

The Medical Protection Society (MPS)

Evidence to the Welsh Assembly *Health, Social Care and Sport Committee*

Inquiry into the Covid-19 outbreak in Wales

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Opening remarks

1. The Medical Protection Society (MPS) is pleased to have this opportunity to provide written evidence to the Health, Social Care and Sport Committee's inquiry into the Covid-19 outbreak in Wales.
2. As per the Committee's request, we have kept our submission brief and confined to some key areas. Should the Committee require any more detailed information on any aspect of this submission, we stand ready to provide any support we can.

Mutuality and discretion: supporting our members

3. The Covid-19 crisis has caused significant worry and concern for healthcare professionals in Wales and around the world – for their health, wellbeing and finances. At MPS we have been adapting the support we provide to members to help ensure they can solely focus on treating their patients during this difficult time.
4. MPS is the world's leading protection organisation for doctors, dentists and healthcare professionals. We are a mutual, not-for-profit organisation. We are owned by and run solely for the benefit of members.
5. 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.
6. 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 and inquests.
7. All the benefits of membership of MPS are discretionary. MPS is not an insurance company.
8. The discretionary nature of these benefits has allowed MPS to take unprecedented action to support members in what are exceptional times.
9. We have offered our dental members and doctors working in the private sector a number of packages to make membership more affordable. For instance, we have offered our dental members two months subscription relief, as we are acutely aware of the significant financial difficulties they are facing at present. Our ability to exercise discretion has been fundamental to this.

10. For those who have taken the difficult decision to halt practise completely – even for a short period during the crisis – they can instead opt to become a deferred member. They will not pay a subscription during this time and they may return as an active member on the same terms when they resume practice at a later date.
11. In addition to the financial support, we have also extended our counselling service for those members experiencing work-related stress. This is provided through a third-party partner and is completely confidential.
12. At the outset, MPS also took decisive action in respect of recently retired doctors and took steps to support those wishing to come out of retirement to support the response to the pandemic.
13. In short, all retired or deferred members of MPS in Wales and in other countries, who have returned to practise during this pandemic, will at no cost be provided professional protection. This means that whilst the state will indemnify them for any claims that could arise as a result of them undertaking work in NHS hospitals, MPS can offer assistance with other matters. These include: medicolegal advice and regulatory representation, support with complaints, disciplinary proceedings, inquests and criminal investigations arising from clinical practice.
14. The qualifying criteria are: a) the member must have ceased practising in the last 3 years; b) the member must comply with the rules of being regulated and licenced; and c) the member must be working fully in a state-indemnified facility during the period.
15. As a mutual, not-for-profit organisation, we exist solely to protect our members. The measures we have put in place are part of our commitment to contribute to the financial, professional and mental wellbeing of healthcare professionals who have been affected by Covid-19. There has never been a more important time for us to use our discretionary powers to step in and offer the assistance members need.
16. We are also very much aware of the role we have in supporting the national effort to tackle this virus across Wales and the rest of the UK. We are committed to continuing to play our part to the full.

Dentistry

17. As a result of the Covid-19 pandemic, the delivery of dental services has declined drastically in Wales, as it has in many countries around the world. Indeed, dentistry – save for urgent care dentistry – has all but ceased.

18. Dentists and members of the dental team are particularly exposed to the risk of contracting coronavirus given the nature of dental treatment. Thus, dental practices across Wales have been forced to close their doors to patients.
19. This is putting significant financial pressures on dentists across Wales, hence why MPS has taken the steps outlined in paragraph 9, to provide subscription relief for our dental members and support them through this difficult time.
20. We note that the Welsh Government has offered dentists 80% of the NHS annual contract value (ACV) for the period of April 2020 to June 2020.
21. We wish to place on record that we question the accuracy of the 20% reduction in the ACV. Notably, the Review Body on Doctors' and Dentists Remuneration (DDRB) modelled the costs for dental materials and laboratories at 13.5%. So there immediately is an evident 6.5% discrepancy.
22. We urge the Welsh Government to review this 20% abatement to bring it in line with DDRB calculations.
23. On a positive note, MPS wishes to commend the Chief Dental Officer (CDO) for Wales – Dr Colette Bridgman. The CDO provided swift, decisive and helpful guidance to the profession when lockdown measures were first instigated. This was appreciated by MPS and many dental professionals across Wales.

Risk Prevention

24. At MPS, our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. This has never been more important than it is today.
25. Throughout the Covid-19 crisis, we have invested significant resource into the delivery of webinars and podcasts – to provide the support and information our members need to practice safely, in a way that suits their needs at a time when many are working considerably longer hours.
26. Topics covered in our recent webinars have included: *remote consulting; tele-dentistry in a COVID-19 World; 'looking after yourself' and self-care through the Covid-19 pandemic* – amongst many others.
27. These webinars have been crafted and delivered by our expert colleagues. In short, they have been produced by doctors for doctors and by dentists for dentists.

28. Of almost a dozen webinars for members in the UK, over 12,000 doctors, dentists and other healthcare professionals have utilised this MPS service. Feedback from attendees suggests members overwhelmingly find these webinars helpful.
29. We were particularly pleased to share this service with the Welsh Government team responsible for the GP Existing Liability Scheme (ELS) indemnity transition. NHS Wales Shared Services Partnership attended our webinars on remote consulting, which is a vital area for primary care and its response to this pandemic.
30. The Committee will be aware of our work in respect of the GP ELS, following its scrutiny of the National Health Service (Indemnities) (Wales) Act in 2019. MPS is wholeheartedly committed to supporting the GP ELS transition – and this intelligence and best practice sharing is just a part of that.

Legal and regulatory protection

31. MPS has long been concerned about the increasing societal tendency towards the criminalisation of doctors. This is also coupled with our concerns about an increasingly outdated and inflexible regulatory regime in the UK for healthcare professionals. The Covid-19 pandemic heightens these concerns.
32. We are hearing from our members – working on the frontline – that they are concerned about the risk of criminal or regulatory action being taken against them, as a result of the difficult decisions they may have to make when treating patients with coronavirus.
33. Doctors and other healthcare professionals have been working in highly pressurised environments, sometimes outside of their usual scope of practice and not always with adequate personal protective equipment (PPE).
34. We believe that during this time it is more important than ever to ensure healthcare professionals are able to focus on providing the best possible care to patients without being overly concerned with the prospect of employer, regulatory or criminal investigations.
35. We have called on the UK Government to introduce emergency laws to protect doctors and other healthcare professionals – and the clinical decisions they make – during a coronavirus outbreak.

36. Thankfully, in Wales and across the UK, we appear to be passing through the peak of this wave of the virus. The very real fear, of ventilator shortages, has not materialised – and long may this remain so. However, as future waves of this indiscriminate and unpredictable virus cannot be ruled out, we are calling for greater legal and regulatory protections for the healthcare profession.
37. We simply do not believe that it is fair for doctors - whom are already under immense pressure – to be asked to make difficult treatment decisions based on a hope that the courts and the General Medical Council (GMC) will treat them fairly and rightly protect them in the future, if their decisions and actions are challenged.
38. We would gladly explore this subject in more detail with the Committee, if it would find that helpful.
39. We have also called for urgent reassurances from both the GMC and NHS employers, that doctors will not be subjected to regulatory or disciplinary action following a decision or outcome that is the result of poor PPE provision.
40. A key but sad feature of this pandemic across the UK, has been the shortages of PPE for healthcare professionals on the frontline. While we are pleased that the Welsh Government increasingly has the issue under control, there remains logistical problems and local supply issues across all four nations of the UK.
41. While we continue to call on all governments to work tirelessly to ensure healthcare staff have all the PPE they need to practise safely, we confine our comments here to a broader topic.
42. If a doctor decides they cannot safely see a Covid-19 patient because they do not have adequate PPE, and that patient subsequently comes to harm, MPS believes that the doctor should not be held personally accountable by their employer or the regulator. Currently, a doctor making the difficult decision to not see a patient due to inadequate PPE could be investigated by their employer, or the GMC if the patient subsequently came to harm.
43. MPS calls on the Welsh Government to endorse our position that doctors across NHS Wales should not be subjected to regulatory or disciplinary action following a decision or outcome that is the result of poor PPE provision.

Closing remarks

44. We hope this brief submission is of assistance to the Committee.

45. Should the Committee require any more detailed information on any aspect of this submission, we stand ready to provide any support we can.

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