

# **PROFESSIONAL INDEMNITY INSURANCE**

## **FREQUENTLY ASKED QUESTIONS (FAQs)**

This FAQs sheet summarises the Society and College of Radiographers' (SCoR) Professional Indemnity cover. While this summary has been prepared by the SCoR in good faith, the terms of the insurance cover are governed by the wording of the policy and not by this summary. In the event of any conflict between the two documents the terms and conditions of the policy will apply to the indemnity insurance policy.

### **What do I do in the event of an accident or incident?**

In the event that a member is made aware of a possible claim that may involve them in making a formal statement, participating in a formal enquiry or giving evidence under oath, it is important that they contact the SCoR as soon as possible. A contact form is provided on the website. Members should note that it is extremely important that they provide no written statements to anyone until they have been approved by the SCoR's insurance brokers. Initial enquiries will be responded to within a maximum of three days. Failure to report an incident immediately, which later leads to a claim, could result in insurers refusing to deal with the matter if they feel that their position has been prejudiced by the late advice.

### **Protection provided by us.**

The SCOR Professional Indemnity Insurance is an insurance policy that provides monetary protection in the event of legal action being taken against an individual who has caused damage or loss. The policy indemnifies members against such sums as they may become legally liable to pay in respect of claims made against them arising from bodily injury or disease (fatal or non-fatal) to persons, or damage to material property, caused by any accident resulting in a claim being made during the period of the policy.

### **How much cover do we provide?**

Each subscribing member is covered up to £5,000,000 in respect of any one accident or series of accidents arising out of one originating cause (inclusive of costs and expenses) and in total in respect of any one member during any one period of insurance. This cover is provided by certain underwriters at Lloyd's (the first £100,000), Royal & Sun Alliance Insurance plc (£1,900,000 in excess of £100,000) and Novae Insurance Company Limited (£3,000,000 in excess of £2,000,000).

### **Who is covered?**

Full members, those life members who have paid the triennial premium separately, members of associated professions for whom there is an agreement of cover and student members under supervision. It should be noted that you must have been a member at the time of the incident in order for the insurance cover to operate.

### **What are the principal policy exclusions and conditions?**

There are several policy exclusions and conditions, which are common to all insurances of this nature. The following restrictions are the most likely to be relevant to members:

- The policy does not cover acts of criminal negligence; that is where it can be shown there was intent to commit an act knowing it is likely to cause harm.

- There is no cover for claims brought in the U.S.A./Canada. The policy also excludes any legal fees, costs and expenses relating to such claims.
- It is a condition of the policy that the members' business or operations in respect of which this policy is effected is that of Radiography, as recognised by the Society of Radiographers, carried out only under referral of qualified medical, dental, veterinary practitioners, chiropodists, allied health professionals, nurses and midwives or self-referrals as permitted by the Council of the Society of Radiographers.

### **Why do members need it?**

Radiographers are responsible for what they do and how they work. The law stipulates that all practitioners are responsible for their actions and any consequences. If a radiographer causes harm or damage in the practice of his or her profession to another person, the latter can seek to be compensated.

### **Why do members working in the NHS need cover?**

SCoR insurance is protection against legal action. Every employer of every kind has a responsibility for the actions performed by its employees. This is called vicarious liability (vicarious means secondary). Therefore health authorities or trusts, being employers, have a vicarious liability for actions taken by their staff. However, any claim against a health authority has to come from NHS monies. Now that NHS budgets are being rigorously controlled to meet Government criteria, health authorities may well decide that, although they will meet the claims made against them because of their vicarious liability, they will, in certain circumstances, subsequently pass on the cost of legal action arising from an employee's malpractice or negligence to the individual or individuals concerned. The Society's indemnity insurance policy would cover you in such an eventuality.

### **Non-medical/Non-clinical ultrasound scans, including 3D and 4D Scanning\***

*\*please note that these do NOT include scans where an image or recording is provided to the patient during a diagnostic/screening scan with no extension to scanning time.*

Sonographers may be asked to carry out what might be considered to be purely 'souvenir scans', usually from self-referrals, i.e. scans with no medical or clinical justification. These scans are normally done for the sole purpose of providing a real time recording and images of a baby or babies for parents and family. Where such scans have no valid clinical indication or make no contribution to the management of the pregnancy, the expert advice given to the Council of the Society of Radiographers is that these are outside of any currently recognised clinical governance. As such, therefore, they fall outside of the Society's current general professional indemnity provision. Individuals who wish to undertake scans of this nature are advised that they should obtain additional professional indemnity cover.

Further advice relating to ultrasound can be obtained from the 'Statement on Ultrasound Referrals and Professional Indemnity Insurance Arrangements' which is on the website Professional Indemnity Insurance page.

### **Use of disclaimers**

The use of disclaimers is becoming common. These are documents which individuals are asked to sign to accept that the scan to be undertaken has no medical or clinical purpose or value, and no guarantees can be given as to whether the scan is normal or shows an abnormality. As with all disclaimers, the mere inclusion of a disclaimer, even if properly

drafted and placed, does not often provide legal protection. The most a disclaimer can accomplish in this respect is to reduce the responsibility of the practitioner. The Society of Radiographers does not advocate the use of disclaimers. Rather, it emphasises that sonographers must at all times use their judgment to assess the risk/benefit of all requests, whether from referral or self-referral source, and ensure that their use of ultrasound is prudent.

### **Can a Radiographer be sued as an individual?**

Yes. There are instances of Radiographers being joined in actions brought against health authorities. In such cases solicitors are appointed on behalf of the health authority and it is their brief to defend all those joined in the action, although the interests of the parties may not be the same. The Society's insurance policy means you could have your own legal representation if you were involved in such a case or were joined in a separate action.

### **Am I covered for work carried out outside the NHS as an employee?**

Yes. If members are employed by a private hospital for example, the same principles of cover apply. Private employers have vicarious liability for their employees, but may be less hesitant about claiming back losses incurred through legal action.

### **What other support does the SCoR's insurance policy give the member?**

First and foremost, as with all kinds of insurance, there is the reassurance that you are covered and that when you most need help it is instantly at hand. Ultimately, it is not who pays that is important, whether it is the employer or the insurer, but how you are helped during a traumatic experience. The SCoR and its insurers can provide prompt advice and guidance.

### **Could I save the cost of SoR membership by buying my own insurance?**

No. The Society is able to use the size of its membership to obtain the insurance policy at a very reasonable premium. Individual cover would be much more expensive.

### **Does the scheme cover claims from other health professionals?**

Yes. It is not always the patient who gets hurt by malpractice and negligence; sometimes it is other health professionals. It could be you, either alone or with others, who causes the injury. In such a case the injured party can sue the person or people responsible

There is also an extension in the policy to cover National Councils/Regional Committees of the Society and individual members in respect of their legal liability incurred arising out of activities and meetings held by the National Councils/Regional Committees. Cover includes indemnity to members in respect of legal liability arising from their acts as Expert Witness or as an External Appointment Assessor.

Personal injury claims are dealt with under a separate arrangement administered by the TUIR department.

### **I am self employed for part or all of my work. Am I covered by the SCoR PII?**

Self-employed members are covered in their own right provided they are working within the Scope of Practice and the requirements of the SCoR's PII scheme. If taking on contract work you should ascertain whether Public Liability Insurance for the premises you are working

from is in place and who will be liable for damage to any equipment. You should also ascertain whether any organisation to whom you contract carries Professional Indemnity Insurance that provides you with cover. In many instances you will be acting as a sub-contractor and your SCoR PII cover will be your only effective indemnity insurance.

**I have set up a Limited Company and employ other sonographers or radiographers. What do I need to consider in this situation?**

Any such company will have a liability for the actions of its employees, whether operating within the Scope of Practice or otherwise, leading to a need for insurance coverage to be arranged in the company's name. Suitable cover can be arranged via the SCoR insurers or through other insurance companies.

**Does the SCoR Professional Indemnity Insurance cover my equipment or provide Public Liability Insurance cover?**

No. This can, however, be arranged through the SCoR insurers if required.