

## Insurance for Directors

### *(Overview of Insurance Arrangements for Board Members)*

#### Public Board

30 July 2020

<b>Presented for</b>	For information
<b>Presented by</b>	Jo Bray, Company Secretary
<b>Author</b>	Jo Bray, Company Secretary and David Hay, Deputy Director of Finance
<b>Previous Committees</b>	Annually to the Board, (Last received July 2019)

<b>Trust Goals</b>	
The best for patient safety, quality and experience	✓
The best place to work	✓
A centre for excellence for research, education and innovation	✓
Seamless integrated care across organisational boundaries	✓
Financial sustainability	✓

<b>Key points</b>	
1. The Board are to receive the report and note the contents for both the organisation and for their personal liabilities, provided they have acted honestly and in good faith.	For information

## 1. Summary

It is good practice for the Board and its Directors to receive a report that sets out the Trust's current insurance arrangements and thus the cover for the organisation and for Directors and senior officers.

## 2. Current Arrangements

From the late 1990's NHS Trusts' insurance arrangements have been mainly provided through membership of the NHS Resolution (NHSR) (formerly the NHS Litigation Authority) three main schemes e.g.

- Clinical Negligence Scheme for Trusts (CNST)
- Liability to Third Parties Scheme (LTPS)
- Property Expenses Scheme (PES)

Membership has not been mandatory, but NHS Trusts have been restricted in their ability to buy commercial alternatives.

The summary table provides an overview of the Trusts current insurance arrangements and their cost.

## 3. Trust operations at NHS Nightingale Yorkshire and the Humber (NNYH)

The Liability for clinical negligence, personal injury or employer's liability on the part of the Trust or any person working at the NHS Nightingale Yorkshire and the Humber will be covered by the liability schemes operated by NHSR and conduct of claims will rest with the Trust.

Any losses the Trust incurs to the extent that the national liability schemes operated by NHSR or the Government (under the Coronavirus Act 2020) are insufficient in connection with the Contract are indemnified by NHS England save for any losses connected with misconduct (fraud/gross misconduct of staff etc).

NHS England will also take all reasonable steps to support the management and clinical staff at NNYH and the Trust Board and Executive Team in the discharge of their commitments (set out in the side letter to the NNYH arrangements) in the event of any claim for a judicial review, breach of statutory duty (including Health and Safety) any investigation, root cause analysis, inquest, review or inquiry relating to its establishment, management, operation and/or cessation of the NNYH. The costs are chargeable to NHS England whether before or after the arrangements.

## 4. Directors and Officers Liability

The LTPS scheme includes Directors and Officers Liability cover. It operates with no excess and no indemnity limit other than £250k in the case of pollutant discharge related claims. The scheme is designed to meet the costs of defending or settling claims **against individual Directors. It meets their personal liabilities provided they have acted honestly and in good faith.** It does not meet any costs associated with criminal actions.

At present, NHSR does not provide Public Liability cover for a number of income generation activities which are provided to non-NHS organisations (although this exclusion does not apply to Directors and Officers liability for NHS Trusts). A commercial top up policy is purchased each year to deal with this exposure. The policy provides PL cover for the international commercial contracts we are delivering.

## **5. Property Expenses**

The Property Expenses Scheme operates with a maximum indemnity of £1m per claim. The scheme includes Business Interruption cover which in turn includes loss of profit. The rationale for such a low indemnity value has been that residual liabilities, in the event of catastrophic loss, would be dealt with by the Secretary of State (for example the fire at the Royal Marsden in 2008).

## **6. Equality Analysis**

This report has no negative impacts or opportunities for promoting equality.

## **7. Publication Under Freedom of Information Act**

This paper has been made available under the Freedom of Information Act 2000.

## **8. Recommendation**

Directors are to be re-assured that when carrying out their duties they will benefit from personal liability insurance cover, providing they act honestly and in good faith. **(The purpose of this paper is to annually formally minute this cover).**

Directors are asked to note the content of this paper.

## **9. Supporting Information**

Set out in the summary table.

Jo Bray  
Company Secretary

David R Hay  
Deputy Director of Finance

3 July 2020

## Summary of Trust Insurance Arrangements 2020/21

Policy Type	Provider	Excess Per Claim £000	Indemnity Limit £000	Premium 2020/21 £000	Cover
Clinical Negligence	NHSLA	Nil	Unlimited	36,805	Loss or injury arising from Trust negligence in diagnosis and treatment. Both NHS and private patients.
Liability to Third Parties - Employers Liability - Public Liability - Products Liability - Professional Indemnity - Directors & Officers	NHSLA	10 3 3 3 Nil	Unlimited Unlimited Unlimited Unlimited Unlimited	558	Claims for loss or damage arising from non clinical activity. Covers claims from employees, students and volunteers as well as the public. Extends to claims arising for provision of goods and services to other NHS organisations. Specifically excludes income generation activity to many non NHS parties.
Property Expenses - Buildings - Contents - Business Interruption - Money - Goods in Transit - Fidelity Guarantee - Contract Works	NHSLA	20 20 1st 24 hours 20 20 20 20	1,000 1,000 1,000 var's to 250 20 250 1,000	110	General losses arising from fire, flood, theft etc. The excess levels apply individually to building and content losses but also in the aggregate to a combined claim. In the event of significant damage to a building and its contents the excess would be up to £40k.
Transport	Zenith Marque	5 per claim to a max of £70k per annum	Unlimited	106	Comprehensive vehicle insurance for the Transport fleet. At the time of writing this is a "worst case" estimate based on latest renewal advice from insurers.
Public Liability	QBE UK Ltd	10	10,000	16	Loss or injury arising from the provision of goods and services to non NHS parties.
Personal Accident	Chubb	Nil	2,000	5	Covers staff engaged in patient transfers (blue light), organ retrieval and A&E call out to incidents. "No fault" insurance which makes payment in event of injury, subject to scale of injury
Professional Indemnity	Coversure	5	5,000	16	Specialist insurance to cover Radiation advisory services provided by Medical Physics to Non NHS clients.
Travel	Towergate	Nil	Various Max. 10,000	3	Travel insurance to cover staff engaged in trips overseas, including but not limited to Malta
Engineering Inspection	British Engineering Services	N/A	N/A	43	Not strictly an insurance policy but traditionally provided by the insurance industry. Covers statutory independent inspection of boilers, lifts and other high risk plant.