



CFC Med Mal – Coronavirus Response

SURGEON POLICIES

Whilst the global pandemic of Coronavirus exists, please see below some general answers to common questions that may be raised regarding cover. For more specific queries, please refer to your insurance broker.

1. Does my policy cover Coronavirus?

- The CFC policy provides cover where there is an injury to a patient as a result of a negligent act, error or omission arising out of the provision of medical and clinical professional services. This would apply if the act of negligence arose while treating a patient who has or may have Coronavirus.
- The CFC policy also includes a provision for defence costs and legal expenses for any disciplinary matters arising from both NHS and Private Practice activities.
- Any clinical activity work undertaken on behalf of the NHS will not be covered by the CFC policy and should be met by NHS Resolution as per your existing NHS role. If you are unsure please check with the NHS trust for additional details.
- The CFC policy does not provide cover for the transmission by you of Coronavirus to a patient(s), meaning that we will not respond to circumstances or claims where it is alleged you have transmitted the disease. This stance is in accordance with industry standards and should not impact on your day to day activities whilst responding to this pandemic or where allegations of negligence arise.
- Notwithstanding the above, all other terms of the policy still apply, including the listed exclusions, which may limit or exclude coverage for specific claims.

2. My private practice income is likely to be impacted this year and I have already paid my premium.

We will monitor the situation as this develops and where there is a negative impact in excess of 10% on your estimated Private Practice activities / income, this will be addressed at your following renewal, since it is simply too early to determine the ultimate impact.

Where you have entered into a finance agreement arranged by your insurance broker, please contact them to establish the position under these.

3. My renewal is due and I am unsure about my future private practice earnings.

At the current time, we appreciate it might be hard to determine what this might mean to your earnings, but suggest your future earnings reflect the move away from private practice since you are likely to be required to provide front-line NHS activities for circa the next 3 months or in accordance with any Government directives. This is of course subject to change and you will need to monitor Government advice on cancellation of elective work and the likely period this will exist. Your accountant should be able to help with your earning projections.

4. I have been asked to undertake a role outside my scope of practice – am I covered?

The GMC and other statutory health and care regulators in the UK have issued a joint statement that sets out how healthcare professionals will be regulated during the coronavirus pandemic. As part of the information available the GMC also sets out “Guidance for Doctors” working outside their normal field of practice.

You are duty bound to remain cognisant of any GMC updates and follow any guidance provided or directives given on a real time basis. Where the Government issues a directive for you to work outside your scope of practice **and** such activities are considered private practice work, you will need to contact your insurance broker and provide a brief summary of what you are doing and where. CFC are happy to consider providing coverage for these activities following an assessment of the exposure. As a result, it is very important that we are made aware of this situation at the earliest opportunity to allow us to consider our position. An additional premium may be required for us to give you this additional coverage.

Where this work is being carried out in the NHS, you need not contact us; the CFC policy will not provide cover for this work (in accordance with cover provided by the State / Government directives) other than for the provision of defence costs and legal expenses available for any disciplinary matters arising.

We remind you to make yourself familiar with all directives and how these impact you. If you are unsure or wish to seek reassurance then please contact your insurance broker for advice.

5. Volunteering

The GMC advice states that unless an emergency is declared they are unable to give any temporary registration to those who may wish to volunteer. In the event of an emergency being declared or where a registered individual wishes to volunteer, please follow the advice below:-

- For those who do not have temporary registration, cover will not be granted under the CFC policy.
- For individuals granted temporary registration – please follow the advice on point 4 above depending on where the work is being undertaken – NHS vs Private Practice.
- For registered individuals who want to volunteer in line with their current scope of practice – please contact the GMC and register your interest and then follow advice as per point 4 above on where the work is being undertaken – NHS or Private Practice.
- For registered individual who want to volunteer outside their current scope of practice – please ensure you have been granted authority and retain evidence of this in writing. Please follow point 4 above on where the work is being undertaken - NHS or Private Practice

If you are unsure about your position and wish further clarification, please contact your insurance broker in the first instance.

6. Retired and run off cover

For retired individuals, subject to the run off provisions under a CFC policy, who are subsequently commissioned to resume work under a Government directive please immediately contact your insurance broker who will inform us of this change in status to enable cover to be granted. Applicable terms, conditions and exclusions of the policy will apply. (Please see point 4 above for further guidance.). Once the Government directives are rescinded, cover will be restricted to non-practising in line with the existing run off provisions. Those wishing to continue with active practice following this period must not assume cover will continue; instead, you must inform your insurance broker of your intent to remain active.

7. Am I covered for telephone /video consultations?

Due to the current climate, it is likely that video and telephone consultations will become part of normal practice going forward. In these circumstances, the CFC policy would provide cover subject to its applicable terms, conditions and exclusions in respect of telephone / video consultations as if you were seeing the patient in a face to face appointment.

Best practice, must be maintained including but not limited to, onward referral or scheduling a face to face appointment if the patient's medical condition(s) indicates as such. Whilst these are unprecedented times, you still have a continuing duty of care and therefore must continue to follow best practice and perform professional services as set out by the GMC or as otherwise directed by the Government.

Other aspects that you will need to be aware of includes but are not limited to:

- The issue of confidentiality, privacy and cyber issues when using any applications to ensure patient information remains confidential. You must undertake due diligence and be satisfied as to this aspect prior to using any application;
- Consent must be gained from the patient to record and use technology, such consent to be recorded in the patient notes;
- Using technology does not absolve your duty to maintain contemporaneous patient notes;
- Technology potentially creates gaps in continuous care since the next practitioner reviewing the patient might not be able to access / review the recording or they might not know of its existence and the information contained therein might simply be missed;
- It is prudent to transcribe any recording of a consultation to form part of the standard patient notes;
- CFC accepts no liability with respect to any failures of or defects related to any application used for telephone / video consultations;
- Notwithstanding the above, all other terms of the policy still apply, including the listed exclusions, which may limit or exclude coverage for specific claims.

8. What happens if my private operation lists proceed, am I covered?

CFC continue to provide cover in these circumstances. However where private practice operations are continuing you should consider how to deal with complications since historically these would have been dealt with by transferring patients to the NHS, but in the current climate the NHS might not be able to cope with the demand. This could leave patients subject to adverse outcomes or potential loss of life.

In these circumstances, please note the following:-

- It is likely that each hospital group will have their own policy for the continuance of private practice operations and you should determine their position on what you can do at this moment in time. Where you hold admitting rights it is prudent to gain the hospital's written comments to satisfy yourself of the adequacy of support and robustness of any new system being implemented.
- The potential lack of critical care support is a risk to patients that they must be made aware of. Therefore you **must** inform all of your patients of this very real risk and document all communications in your patient notes in line with the obligations under Montgomery 2015.
- Notwithstanding the above, all other terms of the policy still apply, including the listed exclusions, which may limit or exclude coverage for specific claims.

9. Are insurers withdrawing cover for surgeons?

There are no plans for CFC to withdraw providing indemnity and we continue to support our clients throughout this crisis. We cannot comment on other insurers and where your colleagues may be insured with other companies, they will need to seek their own reassurance via their insurance broker.