
DIRECTIONS

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service Litigation Authority (Arrangements for the Existing Liabilities Scheme) Directions 2019

The Secretary of State for Health and Social Care gives the following Directions in exercise of the powers conferred by sections 7(1) and 272(7)(a) of the National Health Service Act 2006(a).

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the National Health Service Litigation Authority (Arrangements for the Existing Liabilities Scheme) Directions 2019.

(2) These Directions come into force on 3rd April 2019.

(3) In these Directions—

“arrangements” means any contractual arrangements entered into by the Secretary of State with the Medical Protection Society—

(a) for the purposes of the existing liabilities scheme; and

(b) in respect of any relevant liability of an MPS member incurred before 1st April 2019;

“Authority” means the National Health Service Litigation Authority(b);

“existing liabilities scheme” means the scheme to be established by regulations made by the Secretary of State under section 71(1)(c) of the National Health Service Act 2006 and which is to include provision to meet any relevant liability to which the arrangements apply;

“Medical Protection Society” means the Medical Protection Society Limited, a company limited by guarantee, registered in England and Wales with registered number 00036142 and whose registered office is at Level 19, The Shard, 32 London Bridge Street, London, SE1 9SG;

“MPS member” means a member, or former member, of the Medical Protection Society;

“relevant liability” means any liability in tort under the law of England and Wales arising as a consequence of a breach of a duty of care owed by an MPS member to a third party in connection with a relevant function where—

(a) an act, or an omission to act, on the part of the MPS member, or any person employed, engaged or otherwise permitted by the MPS member to carry out an activity in connection with a relevant function, has resulted, in personal injury or loss to the third party; and

(a) 2006 c.41. Section 7(1) was substituted by section 21 of the Health and Social Care Act 2012 (c.7).

(b) The National Health Service Litigation Authority (which operates under the name of “NHS Resolution”) was established by the National Health Service Litigation Authority (Establishment and Constitution) Order 1995 (S.I. 1995/2800 as amended by S.I. 2005/1445, 2013/295, 2014/3090, 2015/137 and 2017/150.

(c) Section 71(1) of the National Health Service 2006 has been amended by the Health and Social Care Act 2008, section 142(1) to (3)(a).

- (b) the act, or omission to act, was in connection with the diagnosis of an illness in, or the provision of care or treatment to, the third party;

“relevant function” has the same meaning as in regulation 2(1) of the National Health Service (Clinical Negligence Scheme for General Practice) Regulations 2019^(a).

Direction to the Authority to carry out responsibilities of Secretary of State

2. The Secretary of State directs the Authority to exercise the Secretary of State’s powers under section 2 of the National Health Service Act 2006, in particular to—

- (a) carry out the Secretary of State’s governance and other responsibilities under, and in accordance with, any arrangements; and
- (b) exercise any rights of the Secretary of State under, and in accordance with, such arrangements.

Signed by authority of the Secretary of State for Health and Social Care

Date: 2nd April 2019

William Vineall, Director
(Acute Care and Quality Policy)
Member of the Senior Civil Service
Department of Health and Social Care

(a) S.I. 2019/344.