

THE LEADER



ROYAL COLLEGE OF NURSING INDEMNITY SCHEME CHANGES: MAKE SURE YOUR SCHOOL NURSE IS COVERED

Recently, two significant changes have taken place that could leave your school exposed if it employs a school nurse. First, in 2013, the UK Government consulted on legislation that makes professional indemnity insurance mandatory for all healthcare professionals, and this has now been introduced as a requirement of EU legislation.

Second, The Royal College of Nursing (RCN) recently announced changes in the way its indemnity scheme operates. This means that from 1 July 2014, work undertaken by RCN members who are employed by schools is excluded from the scheme.

Prior to this change, school insurance providers would have routinely directed any claims made against an individual nurse to the RCN indemnity scheme. Now, however, this is no longer an option. Therefore, schools that employ RCN nurses could face additional liabilities that have not previously been envisaged.

As a result, school nurses must now be covered by dedicated medical malpractice insurance, which is designed to indemnify a nurse against claims from third parties relating to allegations of professional negligence in respect of their activities on behalf of their employer.

The Consequences for Schools

Arising from these changes are a range of potential issues and circumstances, all of which should be considered when ensuring that a school has the correct medical malpractice cover in place.

Continued overleaf



**EDITORIAL BY
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Welcome to the autumn edition of *The Leader*.

Recent changes in legislation and to the Royal College of Nurses' (RCN) indemnity scheme mean schools could now face additional liabilities that have not previously been envisaged. Our lead article looks at the issue of indemnifying a school nurse against claims from third parties relating to allegations of professional negligence in respect of their activities on behalf of an independent school.

You will also find information on the Education Hub — a dedicated website for schools and colleges which provides risk management advice, instructional videos, and a library of useful forms and templates. Then we have an illuminating Q&A with David Hanson, chief executive officer at the Independent Association of Prep Schools (IAPS).

I hope to catch up with many of you at the IAPS Conference in Brighton on 24 -26 September. As a sponsor for the event, Marsh will be exhibiting so please do come along and say hello — we'd be delighted to discuss any insurance or risk issues with you.

If you have any comments, questions, or suggestions for future articles, please do not hesitate to get in touch or find us on LinkedIn® at the Marsh UK Education Forum.

First and foremost, a school cannot escape its vicarious liability for the actions of its employees. That is, if negligence occurs within the scope of the nurse's employment, the school is responsible. Therefore, schools will need to maintain insurance cover that specifically protects against potential medical malpractice by nurses (and non-qualified staff).

Historically, some medical malpractice insurers have applied a clause to their policies that effectively transfers the medical negligence risk back to the cover provided by the nurse's trade body — the RCN. Going forward, such clauses, if contained in a policy, would potentially leave nurses and schools uninsured. As a result, nurses' indemnity clauses or similar should be removed from policy wordings.

Secondly, all school nurses should be registered with the RCN or NMC (Nursing and Midwifery Council), so it is important to check, both at the outset of their employment and periodically thereafter, that they have a valid registration.

Perhaps most importantly, a failure to respond to these changes would not only leave a school at a disadvantage when attracting or recruiting staff — it would also potentially leave pupils at risk. Given that reputation is so important in the independent sector, the ensuing reputational damage should the worst happen could be disastrous.

With Marsh, You're Covered

At Marsh, we have already responded to these changes. That is, in the majority of cases, school insurance cover arranged by Marsh will provide specific medical malpractice cover through a separate section of the policy wording. The cover is provided on a "claims made" basis and has applied since 1 July 2014.

The activities that insurers would consider to be "automatically" covered under this section of cover are:

1. Provision of first aid and associated activities such as the use of EpiPens, entonox, and insulin.
2. Regular medical advice such as referrals to general practitioners, health screening, and the administration of prescribed medication.
3. Provision of vaccinations, either as part of a medical regime or for one-off situations such as travel vaccinations.
4. Blood tests and other similar tests.
5. Advice on health and wellbeing.

For activities that go beyond those set out above, insurers will require additional information and a risk assessment — information that will, in most cases, be gathered via a straightforward questionnaire.

Rest assured then, that putting the right insurance cover in place to protect your school in the unlikely event of nursing negligence can be painless and straightforward. Even so, this is not an issue that can be ignored.

For further information contact our business development team on 01444 313100 or at development.team@marsh.com

DID YOU KNOW?

We can arrange a specialist insurance policy designed exclusively for prep schools.

**FAST
FACT**

WHY BI?

Business interruption (BI) insurance is one of the most crucial covers we arrange on behalf of schools as it provides the means to enable continuity of operation after a catastrophic event, such as fire or flood, which could otherwise prove disastrous to a business.

BI insurance is, in effect, the life-support that sustains an independent school through the trauma of catastrophic material loss. If the worst happens, it takes time to recover the position and BI insurance sustains a business through times of rebuilding and re-equipping.

BI insurance can cover both revenue and any increase in cost of working; however, it is important to give due consideration to the factors that will influence how much money might be required to compensate for lost revenue and what will need to be expended in terms of unbudgeted costs to ensure pupils continue to receive an education.

So, what are some of the main influencing factors when considering how to arrange BI insurance?

Revenue:

- How is the revenue made up and how much revenue might be at risk?
- Will parents simply take their children away from the school and use another?
- How would lettings income be affected?

Increase in cost of working:

- What might be the design, planning, tender, and reconstruction time?
- What type of temporary accommodation might be required?
- How much will the temporary buildings cost to install and rent?
- Is there sufficient space on site?
- How easy is it to access the site?
- Can school services be relocated elsewhere?
- Might there be additional transport, overtime, and security cost?

There are other individual factors that will influence how BI insurance might be arranged and Marsh is here to help guide you to what is the right type of cover and indemnity period for you.

MESOTHELIOMA: DOING THE RIGHT THING, BUT AT A COST

At the beginning of the year, the Mesothelioma Act 2014 received Royal Assent and, as a result, the Diffuse Mesothelioma Payment Scheme (DMPS) was launched. Obscure as that may sound to anyone who hasn't followed the Act's progress through Parliament; these developments do have direct, though relatively modest, financial implications for employers' liability (EL) insurers in the UK.

It is important to consider what the Act and the payment scheme are, and the issues they address, in order to understand why there may be an impact on EL premiums.

Diffuse Mesothelioma is a cancer of the outer covering of the lung, which kills around 2,300 people in the UK every year.* Brought on by exposure to asbestos, most commonly at work, this is a debilitating disease that can leave sufferers reliant on compensation to survive financially.

However, claiming compensation is not always straightforward, largely due to the nature of the disease, which commonly does not present itself until decades after exposure. Quite apart from the issues of evidence and proof this gives rise to, sufferers can be left with nowhere to turn for compensation. In many cases, their employer at the time of exposure no longer exists and it proves impossible to trace the EL insurance provider during the relevant time period.

Until now, this kind of scenario has left sufferers without a means of compensation and therefore reliant on state benefits. This is the situation the Mesothelioma Act 2014 seeks to address. Specifically, it sets out to provide a fund, the Diffuse Mesothelioma Payment Scheme (DMPS), to support mesothelioma sufferers financially when they have been unable to trace their employer or its EL insurance provider. The payment scheme is to be funded via a levy on all EL insurance premiums.

Most people may agree that creating this payment scheme is the right thing to do. Some may be less understanding if the cost of the 2.74% levy is passed on to the insured, resulting in increases in EL premiums.

We are not in a position to directly influence the decision of insurers but would anticipate that some, at least, may choose to pass the cost of the levy on.

However, at Marsh we can, and do, work with independent schools to help offset the effects – for instance, making sure schools have access to the kind of risk assessment and management support than can attract lower overall premiums.

About Asbestos

Detailed information on managing and working with asbestos in schools can be found via the Health and Safety Executive website at <http://www.hse.gov.uk/services/education/asbestos-faqs.htm>

Further Information Sources

- The Health and Safety Executive: www.hse.gov.uk
- Asbestos Removal Contractors Association: www.arca.org.uk
- Public Health England: www.gov.uk

* QBE Technical Bulletin: Mesothelioma Act, February 2014.

NEWS IN BRIEF

How to Fight Supplier Fraud: Instances of attempted supplier fraud are on the increase, and as the fraudsters are becoming increasingly skilled in their ability to misappropriate funds from schools, academies, colleges, and universities, a review of internal procurement policies and procedures could prevent a major loss. To understand how to protect your school against supplier fraud, please read our new adviser guide *Supplier Fraud – The Key to Prevention is Education* on uk.marsh.com/education or join the Marsh UK Education Forum on LinkedIn®.

Are you LinkedIn®? Thank you to everyone who has joined Marsh UK Education Forum on LinkedIn®. The response from all those who have joined the Forum has been really positive and topics such as crisis communications, ebola preparedness, and cyber risks have already been covered. As with any group of this type, the Forum's success will depend on its members – the more of you that get involved, the better, and the more useful it will be for everyone. So why not take a few minutes and visit www.linkedin.com to join today.

Welcome to the Education Hub:

Have you visited www.ecclesiastical.com/educationhub yet? Here Marsh clients will find a comprehensive website of useful information for you and your school ranging from staff training and health and safety advice, to instructional videos on such topics as cold weather advice and risk management, a library of guidance notes, plus easy to use forms and templates to help with the running of your school.

UPCOMING EVENTS

If you would like to talk to us in person, why not come and see Marsh at the following event:

24-26 Sept — IAPS Annual Conference, Brighton



DAVID HANSON — CHIEF EXECUTIVE OFFICER — THE INDEPENDENT ASSOCIATION OF PREP SCHOOLS (IAPS)



Where were you born? I was born in Bolton, Lancashire.

Where did you study? I went to Bolton School. Throughout my teenage years I was very keen to become an architect and was going to study at Manchester University. However, at the last minute and to the

consternation of my parents and teachers, I changed my mind and studied Fine Art. I went to Wolverhampton School of Art, because it was, at the time, the biggest and best resourced Art College in the country. After Wolverhampton, I did a PGCE at Southampton — a young family and work had become much more important to me by then.

What was your first ever job? In the summer holidays I worked, firstly on a market stall selling vegetables, then a building site and then as a line fitter in a bottled pop factory. My first proper job was at Sir John Cass School of Art and then onto a very large London comprehensive school.

How did you become involved in education? Whilst studying I developed a light-weight casting technique and was asked by my tutor to show others. I found great satisfaction in seeing them take the idea, make it their own and go further. It was my tutor who encouraged me to become a teacher.

What is your role in IAPS? As CEO, I am, with the support of an exceptional HQ team, Chairman, and Board, expected to lead the organisation; advise and support our members; promote and defend the sector; and be a proactive in promoting excellence in education.

Why should a prep school join IAPS? IAPS represents more than 600 of the world's finest schools and as such, it is a kite mark of quality. As well as the head, the school is also a member and all staff within the school have access to our website, courses, and telephone helplines. We set very high standards to join and also to remain within IAPS and in return, our members expect world-class support and service. They also benefit from a community of like-minded professionals. I believe we are unique in the depth and breadth of our resources for prep schools.

Tell us about this year's annual conference? We are in Brighton and the theme is *Challenge, Change, Adapt, Succeed* — which very succinctly summarises our history since 1892 and the challenge ahead.

What is the most important challenge for the sector? It is an irony that our success has made us vulnerable. We must persuade all political parties and the Government that despite the obstacles put in our way, we are spectacularly successful at educating young people. I would much prefer the Government to work with us as they have in the health sector and allow the education sector to grow by providing funded access to our schools.

What is the best advice you've ever been given? Know yourself. Make your weakness your strength and the rest will be easy.

What book are you currently reading? *Daughter of the Desert, the Remarkable Life of Gertrude Bell* by Georgina Howell — an extraordinary woman, who in her time, was more famous than Lawrence of Arabia.

Favourite film? Blade Runner.

First ever car? Vauxhall Victor.

Preferred weekend getaway? Barcelona.

For further information about the Independent Association of Prep Schools, please visit www.iaps.org.uk

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