

**Guide.
Support.
Defend.**

Member Guide

**For state indemnified doctors
in the Republic of Ireland**

themdu.com/ireland



MDU

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Glossary

<i>Assistance:</i>	Support we provide, which can include legal advice and legal representation.
<i>Indemnity:</i>	Compensation we can provide for you to pay damages for the activities outlined on page 6 of this guide
<i>Medical Council:</i>	Comhairle na nDochtúirí Leighis, established by the Medical Practitioners Act 1978.
<i>Mutual fund:</i>	Money we collect in the form of members' subscriptions which we hold to defend our members and provide other membership benefits.
<i>Occurrence basis:</i>	This means the right to ask for our help at any point in the future as long as you were a member when the incident happened, even if you have since left, retired or taken a career break, such as parental leave.
<i>Specific incident:</i>	A circumstance which happened with an individual patient or in relation to a distinct report or statement on a particular date, which may give rise to a claim or request for medico-legal support.
<i>Vicarious liability:</i>	When you are legally responsible for the acts or omissions of people who work for you.

As an MDU member you can practise with confidence

We are a not-for-profit organisation dedicated to our members' interests.

We offer you expert **guidance**, personal **support** and a robust **defence** if your clinical competence or care of patients is questioned.

Our team is led and staffed by doctors with real-life experience of the pressures

and challenges faced in practice.

We have an unmatched track-record of helping members overcome the challenges which could threaten their livelihood.

You can **practise with confidence** because we are on your side, and by your side.

This is your guide to MDU membership. It describes the main benefits and responsibilities of membership. For more information and a copy of our Memorandum and Articles of Association, please visit

themdu.com/ireland

Benefits of membership

Important information:

This type of membership is for state indemnified doctors. Your clinical work should be fully indemnified by the Clinical Indemnity Scheme (Enterprise Liability) provided by the State Claims Agency. We may in our discretion give medico-legal advice in respect of incidents which could give rise to a claim. But you should have no expectation that we will exercise our discretion to provide Assistance or Indemnity for claims costs or expenses arising from allegations of clinical negligence, as that is provided by the State Claims Agency.

The benefits of membership are on an occurrence basis. This means that you can ask for our assistance as long as you are (or were) our member at the time the incident happened.

This applies even if you are no longer a member or have retired or stopped practising. Your estate can even ask for our help after your death.

We use the mutual fund to provide assistance to members.

We are not an insurance company. If you ask us for assistance or indemnity, this may be provided, at our Board of Management's discretion, subject to our Memorandum and Articles of Association.

As this is your company, you can vote on resolutions at our Annual General Meeting. Depending on your choice, you will receive a paper or electronic copy of our Annual Report and Accounts to keep you up to date with our activities.

Please read this guide along with your renewal letter and any other information from us explaining your member benefits based on our understanding of the work that you do.

Guiding you

24-hour medico-legal advice and guidance

If you face a difficult ethical or medico-legal issue in your career, don't lose sleep. Speak to specially trained doctors and lawyers on our free 24-hour helpline. (Our medico-legal team is available between 8am and 6pm Monday to Friday and provides an on-call service for medico-legal emergencies or urgent queries 24 hours a day, 365 days a year).

Stay up to date using our guidance and advice

Our guidance and advice is free to members and features real case histories and topical articles on subjects such as complaints and confidentiality. These are all available online.

Keep your finger on the pulse with themdu.com

Find advice, hot topics, case studies, podcasts, webinars, videos and more on our website.

Supporting you

At your call

Our accredited membership team is just a free phone call away. If you have a question about your subscription or the work you can be indemnified for, we can help you from 8am to 6pm, Monday to Friday.

Worried about a complaint?

Complaints can cause great concern for members. If you receive a complaint, our team of medico-legal experts is here to help.

Facing an investigation?

If you are under investigation by your hospital or the HSE it can be highly stressful. But we can help you prepare your response and help defend your actions if necessary.

Do journalists want a story?

Press attention is rarely good news for members. Our media team can help you respond to enquiries and avoid common pitfalls.

You can call on our support for:

- patient complaints at local level and those referred to the higher authorities;
- complaints to the Medical Council;
- disciplinary hearings arising from your clinical practice at your hospital or other local HSE body (if we are allowed to attend under their procedures);
- criminal investigations and proceedings arising from clinical practice;
- preparing a case and representation at inquests;
- local, regional or national inquiries into the clinical management of patients;
- advice on managing risks; and
- representation when dealing with press or media enquiries.

Defending you

Representing you at a Medical Council hearing

One of the toughest experiences for a doctor is to face a fitness to practise inquiry. Your career and reputation are on the line. At this point you want to know you have the best medical experts and lawyers defending you.

The costs of defending a Medical Council case can be more than €90,000. However, you can rest assured that we can represent you at a hearing, giving you the best chance of a good outcome.

Representing you at a criminal trial

While rare, doctors can face criminal charges arising from their treatment of a patient. Faced with the ordeal of a public trial and the threat of prison, you need experts on your side as well as by your side. We can provide you with expert legal help to build and present your case and defend you.

Representing you at a disciplinary hearing

If you face a disciplinary hearing in connection with your clinical practice, we can provide you with expert advice and representation and attend with you (if we are allowed to under your organisation's procedures).

Professional indemnity for claims

With the exception of Good Samaritan acts worldwide, you should have no expectation of Assistance or Indemnity in respect of claims, costs or expenses arising from allegations of clinical negligence. This is because your clinical work is indemnified by the State Claims Agency.

Activities for which you can seek Indemnity

You will have access to indemnity for the specified work below for earnings up to €1500 gross per year.

- Provision of medical reports.
- Provision of witness statements for the Garda.
- Provision of reports to the Coroner.
- Safeguarding work (adults and children).
- Assessment of testamentary capacity.
- Signing death notification forms and cremation forms (including pacemaker removal).
- Academic, research and lecturing activities including the supervision of students and doctors in training.
- Clinical and non-clinical audit.
- Acting as an examiner for a Royal College or Faculty.
- Medical assessor for the Medical Council.
- Reports to the Mental Health Commission.

Practise with confidence

As a members' organisation, we believe it's important to provide up front information about when we are likely and unlikely to help members. This means you have a good understanding of what to expect when asking for our help.

As our member you can ask us for help, which we may provide at our Board of Management's discretion. The following are examples of things we may take into account when deciding whether to help you.

- You should have been a member of the MDU when the incident took place.
- You should have reported to us a specific incident involving you as soon as is practicable.
- You should have declared to us the nature of your practice, in terms of type and quantity of work and have paid the appropriate subscription.
- You should have told us about any change in your circumstances, and about any change to your professional or personal situation which is relevant and has, or may have, a material bearing on your professional practice, or on your MDU membership.
- You should be registered with the Medical Council and ensure you have the appropriate training and expertise for the role you are undertaking.
- You should co-operate fully with us and our representatives.
- You should provide full and accurate information relevant to the case without delay, and be truthful and act in good faith at all times.
- You should not have admitted legal liability for an incident.
- The matter should have arisen from your clinical practice in the Republic of Ireland. The patient should have been in the Republic of Ireland on the date of the incident and the date of the examination (if different).

If you need our help, simply call **1800 535 935**, our 24-hour freephone medico-legal helpline. Please tell us as soon as possible about any incidents.

When we are unlikely to provide support

We carefully consider each request for help. But the following are examples of when we are unlikely to provide support.

IMPORTANT NOTICE: Requirement for doctors to register with a recognised professional competence scheme.

All doctors on the Medical Council register are legally obliged to maintain their professional competence by enrolling on a professional competence scheme and following the requirements set by the Medical Council. Please note that, whilst the discretion of the Board of Management is not constrained, it is unlikely that the benefits of membership would extend to assist with a matter if you are not enrolled with a recognised professional competence scheme. Once enrolled you should comply with the requirements set by the Medical Council. If you are not enrolled on a recognised professional competence scheme please contact our membership team immediately.

Matters which can be covered by other insurances and organisations providing indemnity

- Matters where you are entitled to indemnity under an insurance policy or a State Claims Agency scheme or enterprise liability, or are entitled to ask for help from another organisation.
- Specific incidents arising from your vicarious liability for any act or omission (failure to act) of another individual.
- Claims relating to property, including its damage or destruction.
- Claims relating to making, distributing or selling any product.
- Pollution or environmental claims, other than relating to treating an individual patient who is injured or ill as a result of pollution.
- Claims arising from material published or broadcast by you, or on your behalf, or to which you have contributed.

Matters of deliberate, reckless or criminal acts

- Defending criminal charges arising from activities not related to the normal treatment of a patient, for example assault of a colleague or motoring offences.
- Any matters arising from a criminal act which you have admitted or which has been proven, including damages or fines resulting from such an act.
- Claims arising from unlawfully selling, supplying or using any substance.
- Any matters arising from you (or anyone you have vicarious liability for) deliberately intending to cause harm, or from your or their fraudulent, dishonest, malicious or reckless act or omission (including retrospectively altering medical or other records), where you knew about this act or omission.
- Damages awarded for a claim which arises from allegations of sexual harassment, sexual misconduct, unlawful discrimination or other alleged unlawful conduct by you, which arises from your clinical practice or a Good Samaritan act, and legal costs for any matter which is proven or admitted.
- Defending allegations of personal misconduct (as distinct from clinical issues) at hospital or health board disciplinary hearings.

Matters of commercial interest

- Partnership, employment or agency disputes or contracts, or compensation claims. (We do not support members with employment advice and associated services and encourage you to join an appropriate organisation as well as joining the MDU.)
- Fee scales and recovery of charges for work you have carried out.
- Withholding of your pay or deduction from a contractual payment in conjunction with a disciplinary hearing.
- Issues arising from commercial contracts or arrangements, or related to any trading or personal debt you may have, including claims arising from your insolvency or bankruptcy.
- Investigations by competition authorities.
- Any indirect or consequential loss, or loss of profits or earnings by you.

Other matters which may not be in the wider interests of our members

- Your personal costs arising from your attendance at court, hearings or meetings with us about your case, or the costs of any locum cover you may arrange.
- Claims made by someone who is not the recipient about reports you have provided, if the subject of that report is a general clinical matter and not about a patient.
- Any issues arising from your failure to achieve the educational or training standards necessary, for example failing exams.
- Damages awarded in a claim for defamation against you arising from your clinical practice or a Good Samaritan act.
- Legal expenses or costs if you pursue a grievance or claim of defamation or discrimination against someone else.
- Exemplary or aggravated damages awarded against you.

If you are not sure whether indemnity can be made available for a particular area of your work, please call our membership team on **1800 509 132**.

Working overseas

All members can receive professional indemnity for Good Samaritan acts worldwide. This means providing clinical services related to a clinical emergency, accident or disaster when you are present as a bystander.

Except for Good Samaritan acts, we do not offer assistance or indemnity if you are working overseas.

If you are going overseas you may be able to place your membership on hold. Please contact our membership team.

Going to work in the UK?

If you are going to work in the UK, you will need to change your type of membership. Again please contact our membership team to discuss.

Your membership

Your subscription

The MDU is a not-for-profit mutual company, owned by our members.

Your membership confirmation documents will explain what support is included in your membership. It is important that you read your membership confirmation.

As your membership is on an occurrence basis you can ask for our assistance at any time, providing you were a member when the incident happened.

All subscription income is used to provide benefits of membership and meet the running costs of the company.

It is important that you keep your membership details up to date. Contact our membership team using the details on the back of this guide.

It is important that the information you give us about your past and current practice is complete, accurate and up to date. **Failing to keep us informed of the type and amount of work you do, or changes to your practice, could affect your access to the benefits of MDU membership.**

If there is **any** change in your circumstances or a change in your professional or personal situation which could possibly have a material bearing on your professional practice, or on your MDU membership, you must tell us immediately.

Refunds

Your subscription pays for one year's membership. If you want to cancel your membership early, we do not offer refunds unless there are special circumstances such as sickness, retirement or family leave, and we don't refund amounts of €10 or less.

Customer service excellence

Our membership team is just a free phone call away. You can reach us between 8am and 6pm, Monday to Friday. We can help you with any membership questions you may have.

We are proud that our team has been accredited under the prestigious UK Customer Service Excellence programme and provide high levels of service.

Complaints

As part of our commitment to customer service excellence, we take complaints seriously and do our best to deal with them quickly and fairly. If you have a complaint, please contact:

Head of Membership Quality & Control,
membershipcomplaints@themdu.com

or visit themdu.com/complaints

Data protection

How we manage your data

We understand the importance of storing your data securely and telling you how we will use your data in a transparent and clear way. Whether providing a subscription quote, sending you cautionary tales or our medico-legal journal or defending a claim on your behalf our aim is to make sure that the personal details you provide to us are secure and processed as explained in our privacy policy. Read our full policy at themdu.com/privacy

Sending information to our advisory team

When seeking medico-legal advice from the MDU, **please do not send us any information about patients that is not directly relevant to your enquiry** and necessary for us to advise or assist you. If you do need to send information about patients **you should remove any details that could identify the patient(s)** concerned (other than their initials and date of birth which we need to check for conflicts or duplicates), unless we have specifically requested original unedited documents.

Providing our advisory team with documents that contain unnecessary personal data about patient(s) may delay our ability to respond quickly.

Continuing your membership

About three weeks before the end of your membership year, you will receive an invitation to renew your MDU membership. We ask you to respond to us before your renewal date. However, we do allow 28 days grace beyond the renewal date to allow you to pay. As long as you can confirm that no new incident has happened since the renewal date, we will honour the renewal terms.

If you pay by Direct Debit, all you need to do is check the renewal information and tell us immediately if there are any changes.

If you do not pay by Direct Debit and you do not respond to the invitation to renew, we will cancel your membership from the renewal date. We will send you written confirmation of this. If you then want to reinstate your membership, you can do this within 28 days of your renewal date at our discretion.

Discontinuing your membership

If you leave MDU membership you can continue to request our assistance for incidents that happened at any time when you were a paying member of the MDU. Even after you have retired.

This booklet is a broad guide to the products and services provided by MDU Services Limited (MDUSL) and the Medical Defence Union Limited (the MDU). We always aim to offer attractive benefits as part of membership. As a result, we may add, withdraw or change benefits. Visit themdu.com for the latest information of the benefits included in membership and a copy of our Memorandum and Articles of Association.

It is the policy of the MDU that all members and those applying for membership should be afforded equal treatment irrespective of race, gender, age, sexual orientation, disability, religion or belief.

How to contact us

Membership

t 1800 509 132

e membership@themdu.com

Advisory

t 1800 535 935

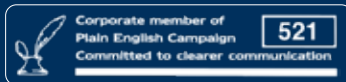
e advisory@themdu.com

Your feedback

Give us your feedback about the MDU
themdu.com/feedback

Website

themdu.com/ireland



MDU Services Limited (MDUSL) is authorised and regulated by the Financial Conduct Authority for insurance mediation and consumer credit activities only. MDUSL is an agent for The Medical Defence Union Limited (MDU). MDU is not an insurance company. The benefits of MDU membership are all discretionary and are subject to the Memorandum and Articles of Association.

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