

Guide.
Support.
Defend.

Your guide to MDU membership

*Republic of Ireland
Claims-made*

themdu.com



MDU

Practise with confidence

We are a not-for-profit, mutual organisation, owned by our members and dedicated to your 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 excellent track-record of helping members overcome the challenges that 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, please visit our website at themdu.com/ireland

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Glossary

<i>Assistance</i>	Guidance, support or defence we provide, which can include legal representation.
<i>Claims-made</i>	The basis on which we provide your membership. This means you can ask for our assistance with an incident, provided you were a member when it happened and report it to us whilst you are in membership.
<i>Extended Reporting Rights (ERR)</i>	ERR allows you to request MDU assistance when you are no longer a member, for claims and other matters arising from incidents which happened during your claims-made membership.
<i>Incident</i>	A circumstance that happened in relation to an individual patient or your professional actions on a particular date, which may give rise to a request for assistance or a claim.
<i>Indemnity</i>	Compensation we can provide for you to pay damages and plaintiffs' costs for clinical negligence.
<i>Medical Council</i>	Comhairle na nDochtúirí Leighis, established by the Medical Practitioners Act 1978.
<i>Mutual fund</i>	Assets we hold from which we provide the benefits of membership.
<i>Vicarious liability</i>	When you are legally responsible for the acts or omissions of people who work for you.

Benefits of membership

The membership benefits we provide are designed to meet your needs arising from the clinical services you provide.

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 you do.

Claims-made membership

The benefits we provide are on a **claims-made** basis. This means you can ask for our **assistance** with an **incident**, as long as you were a member when it happened and report it to us whilst you are in membership (or have acquired extended reporting rights.)

We are a mutual, not for profit, medical defence organisation

We are not an insurance company. We use our **mutual fund** to help members. If you ask us for assistance or **indemnity**, this is provided at our board of management's discretion, as set out in our memorandum and articles of association.

Annual General Meeting (AGM)

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.

Important information

This member guide is for members who joined before 1 January 2021 and have not switched to our membership for state-indemnified doctors.

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 on our 24-hour helpline.

Our medico-legal team is available between 8am to 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 with our publications

Our highly regarded publications feature 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.

Face to face

We can visit you locally to discuss your membership. This gives you the opportunity to meet our specialist liaison teams and sort out questions face to face.

Supporting you

Worried about a complaint?

While claims make the headlines, complaints often cause the most concern to our members. If you receive a complaint, our team of medico-legal advisers are 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 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.
- Preparing a case and representation at inquests.
- 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.
- Local, regional or national inquiries into the clinical management of patients.
- Advice on managing risks.
- 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.

Representing you throughout local disciplinary proceedings

If you face local disciplinary proceedings in connection with your clinical practice, we can provide you with support and representation and attend with you (if allowed under the procedures).

Representing you throughout a criminal investigation and trial

While rare, doctors can face police 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.

Indemnity for clinical negligence claims

If your membership includes indemnity for claims, we can defend you against claims that arise from the normal practice of clinical medicine in the Republic of Ireland.

We recognise your professional reputation is at stake. We will not settle a claim without your agreement.

Where it is appropriate that patients are compensated, we aim to do so quickly and efficiently to minimise stress for everyone involved.

MDU assistance with claims can include:

- Paying damages, plaintiffs' costs and defence costs arising from claims for clinical negligence (including assistance for your personal representatives if a claim arises after your death).
- Defence costs (but not damages or plaintiffs' costs) for claims which arise from allegations of defamation against you, arising from your clinical practice.
- Defence costs (but not damages or plaintiffs' costs) for claims that arise from allegations, which are not proven or admitted, of sexual harassment, sexual misconduct, unlawful discrimination or any other alleged unlawful conduct by you that arises from your clinical practice.
- Indemnity for claims arising from Good Samaritan acts carried out anywhere in the world.

Reporting a claim

The first time you hear about a claim for compensation against you is often when you receive a letter or court papers from a patient or their solicitor. This can be a shock and requires urgent specialist advice.

Our claims team is here to support you every step of the way. The team includes doctors, claims experts and solicitors, who will keep you informed about the progress of the claim.

You should contact us, without delay, if you become aware of a claim that is being brought (or is being threatened) against you. Do not take any steps in the matter without our prior approval.

Reporting a claim to us is easy. Simply call our medico-legal helpline on 1800 535 935. The sooner we know, the sooner we can help you.

Once you have told us about the claim, an adviser will ask you to send documents we need from you.

We will ask you to send your documents as soon as possible to:

claims@themdu.com

It's important you do this straight away, as we usually only have a short time from you receiving claims correspondence to provide a response.

Reporting claims and requesting MDU assistance after you retire or after your death

If you leave membership or die, you (or your personal representatives after your death) can still request assistance with claims, Medical Council investigations or other matters that arise from an incident that happened while you were a member, as long as the incident was notified to us while you were still a member.

To seek our help with new matters arising from an incident that happened while you were a member, but which was not notified while you were a member, you (or your personal representatives after your death) will need to apply for and be granted Extended Reporting Rights.

When we're likely to help

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

As our member you can ask us for help, which is provided at our board of management's discretion, in accordance with the memorandum and articles of association.

The following are examples of things we may take into account when deciding whether to help you, but they are not a definitive list, as the facts and circumstances of each matter will differ:

- You should have been a member when the incident took place and the matter was reported to us.
- You should have reported the incident involving you to us as soon as practicable.
- You should have declared to us the nature of your practice, in terms of type, quantity and location 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 have been registered (with a licence, if required) with the appropriate professional regulatory body to carry out the clinical services you did. You should also have had the required training and experience needed for these activities.
- You should cooperate 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 a claim, or settled a claim without our agreement.

- 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), unless you have specific agreement from us to work overseas.

Expectations of level of support

You should have no expectation that MDU assistance will be afforded beyond an aggregate of €10million in any one membership year. Furthermore, you should have no expectation that MDU assistance will be afforded beyond an aggregate of €10 million in respect of any claim against more than one member (including you) that arises from the same incident or same set of circumstances.

When we're unlikely to help

We carefully consider each request for help. The following are examples of when we are unlikely to provide support. This is not a definitive list, as the facts and circumstances of each matter will differ.

- 1. A practice nurse is a nurse who is not, and is not held out to be, a nurse practitioner or advanced nurse practitioner within our definition(s). We can provide individual membership for other registered healthcare professionals, including nurse practitioners. Please contact our membership team for details.*
- 2. It is important that you regularly ensure all doctors and dentists, and any other registered healthcare practitioners employed or engaged by you, hold appropriate indemnity. This should be through the State Claims Agency indemnity scheme, membership of a medical defence organisation or other adequate and appropriate indemnity for the work they carry out for you. This includes any person providing laboratory, or other services, to you. We are unlikely to assist with claims (including the payment of defence costs) arising from your vicarious liability where the individual concerned has not held appropriate indemnity.*

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/or organisations providing indemnity

- Matters where you, or another person you have vicarious liability for, 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.
- Damages and plaintiffs' costs awarded from a claim arising from your vicarious liability for any act or omission of a registered medical, dental, or other healthcare practitioner (except practice nurses¹). This includes any person providing laboratory, or other services, to medical, dental, or other healthcare practitioners.²

- Matters arising from the acts and/or omissions of your partner(s) in a firm and/or other corporate arrangements.
 - Matters relating to property, including its damage or destruction.
 - Matters relating to the manufacture, sale, supply, distribution, use or application of any product (other than in respect of the application or preparation of any medicinal or pharmaceutical products).
 - Matters relating to pollution or environmental allegations, other than relating to treating an individual patient who is injured or ill as a result of pollution.
 - Matters arising from material published or broadcast by you or by someone for whom you are vicariously liable, or on your behalf, or to which you have contributed.
 - Matters arising from incidents that happen when you are not in benefit of membership.
 - Matters arising from research, other than with reference to alleged negligence in treating an individual patient.
 - Compensation for failures of administration or complaints handling.
- 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.
 - Matters 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 practising in a manner that does not align with the ethics and expectations of the profession. This includes but is not limited to, your or their knowing (or obvious) dishonest, fraudulent, malicious or reckless acts or omissions (including retrospectively altering medical or other records).

- Damages and plaintiffs' costs awarded for a claim which arises from allegations of sexual harassment, sexual misconduct, unlawful discrimination, defamation or any other alleged unlawful conduct for any matter that is proven or admitted.
- Damages and plaintiff's costs awarded for a claim that arises from the failure to properly sterilise equipment or materials.
- Defending allegations of personal misconduct (as distinct from clinical issues) in local disciplinary investigations or hearings.
- Withholding of your pay or deduction from a contractual payment in conjunction with a disciplinary investigation or hearing.
- Claims made by someone who is not a patient, including employers, employees, contractors, agents, sponsors or other third parties.
- Matters arising from commercial contracts or arrangements, or related to any trading or debts incurred by you, including claims arising from insolvency, bankruptcy or fines or penalties arising from your failure to meet service standards.
- Fines or other penalties arising from criminal, governmental or quasi-governmental investigations, or by the HSE or other body.
- Support with the investigation of or payment of damages, fines or other penalties arising from alleged or actual breaches of data protection law, except claims relating to confidentiality or data protection breaches arising from the clinical care of a patient you have treated.
- Investigations by competition authorities.

Matters of commercial interest

- Partnership, employment or agency disputes or related contractual 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.

- Any indirect or consequential loss, or loss of profits or earnings by you.
- Matters arising from your failure to achieve and/or maintain necessary educational or training standards.
- Matters arising in relation to your work as a director of a company (unless specifically agreed in advance).
- Matters arising from your clinical practice where we or the State Claims Agency are not your indemnifier for clinical negligence claims arising from the work (unless specifically agreed by us in advance).
- Other matters that have no direct connection with your normal clinical practice.
- Costs incurred by you from your attendance at court, hearings or meetings with us about your case, or the costs of any locum cover you may arrange.

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

- Claims arising from your involvement in obstetric care in the Republic of Ireland whether antenatal, intrapartum or postnatal care.
- 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 an individual patient.
- Damages and claimants' costs awarded in a claim for defamation against you arising from your clinical practice.
- 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.
- Legal or other costs or expenses that you incur without our prior approval.
- Claims where you have retired from practice or left the MDU and have not applied for, and been granted, Extended Reporting Rights.

Your membership

Contacting our membership team

Our membership team is just a phone call away if you have a question about your subscription or the work you can be indemnified for. They are available from 8am to 6pm Monday to Friday and can be contacted on 1800 509 132.

Your subscription

Your subscription is based on a number of factors including the amount and type of work you do. It's important that the information you give us about your clinical practice is complete, accurate and up to date.

Over the years we have developed sophisticated actuarial, underwriting and clinical risk management capabilities enabling us to have an increasingly comprehensive and detailed understanding of the risk resulting from the clinical practice of each individual member.

Factors we may consider include the length of your MDU membership; your place of work and your professional responsibilities; your involvement in complaints or other professional difficulties (whether involving the MDU or not); and past claims or potential claims.

As a reflection of the dynamic nature of medical practice and the claims environment, our calculation of risk is constantly evolving. This can result in subscription changes either up or down to reflect our assessment of the risk within your practice from year to year.

If anything changes that might have a material bearing on your clinical practice, please tell us immediately.

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 membership.

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

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.

Where a refund is due, we will usually make it to the person or organisation which paid the subscription with the same payment mechanism they used.

Continuing your membership

Before the end of your membership year, you will receive an invitation to renew your membership. We ask you to respond to us before your renewal date. However, we 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.

Change of contact details

Please don't forget to tell us if your address and/or contact details change. If we don't have your latest details, you may not receive your renewal documents, and you could find yourself without membership.

Change of work location

If you are planning to work in the UK, please contact our membership team beforehand to discuss your indemnity needs. You may need to pay a different subscription depending on how long you are going for and the type of work you will be doing.

If you are a member working in the Republic of Ireland and you move to work in the UK, you can keep your MDU membership, as long as you are registered with the GMC to practise in the UK.

Members in the Republic of Ireland who carry out some work in the UK may also be entitled to ask for our assistance for work in the UK. Please contact our membership team to discuss this.

Working overseas

All members can receive clinical indemnity for Good Samaritan acts worldwide. This means providing clinical services related to a clinical emergency, accident or disaster that could not have been anticipated and when you are present only as a bystander.

Except for Good Samaritan acts, we do not offer assistance or indemnity with matters arising from practising in the USA, Australia, Canada, Bermuda, Israel, Hong Kong, Nigeria or Zimbabwe or for matters over which courts of those countries are responsible.

If you are going to work overseas, please contact our membership team to discuss your plans before you go.

If we have advised you that we cannot offer assistance or indemnity for your overseas work, you may be able to place your membership on hold for the period that you are away.

Taking a career break

If you wish to take a career break, you may be able to place your membership on hold. Please tell our membership team before starting your break and before you return to work.

If you are on a break you may need to continue to pay a subscription, although it may be at a reduced rate as you will not be working.

Discontinuing your membership

Your membership is provided on a claims-made basis. If you end your membership, you will no longer be able to request assistance for incidents that happened during your claims-made membership that have not previously been notified to us, unless you have applied for and been granted ERR.

ERR can be applied for by you (or your personal representatives after your death) by contacting our membership team.

Applications for ERR must be made before you leave MDU membership or up to 30 days after your membership ends.

After your death, your personal representatives have 30 days to apply for ERR once probate or letters of administration are granted.

You will not have to pay an additional subscription for asking for our help with new matters arising from events that occurred during a period of occurrence-based membership that pre-dated your period of claims-made membership.

You or your personal representatives should have no expectation that MDU assistance will be afforded beyond an aggregate of €10 million for matters notified over a 10-year period after you leave MDU membership, retire permanently or die.

You or your personal representatives should not have an expectation that ERR will be extended beyond 10 years after leaving the MDU unless you have been granted and paid for a further extension.

You or your personal representatives should also not have an expectation the MDU would indemnify you beyond an aggregate of €10 million during the ERR period in respect of any claim against more than one member which arises from the same incident or same set of circumstances.

If you die during the 10-year ERR period, your personal representatives should not have an expectation that any ERR offered to them will extend beyond the original 10 years from the start of your ERR, unless they have been granted and paid for a further extension.

Sending information to us

Protecting patient information

Many members, including general practitioners and consultants working in private practice, will be data controllers under data protection legislation and are therefore required to inform patients about how they will use the data they hold about them.

You should therefore inform your patients – in practice leaflets, privacy notices and complaints procedures etc - that you may need to provide information about the patient, and treatment they have received, to insurers, indemnifiers or legal advisers in connection with any actual or potential complaint or claim.

Sending information to our advisory team

When seeking medico-legal advice from the MDU, please only send us information about patients that is 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 concerned (other than their initials and date of birth which

we need to check for conflicts or duplicates), unless we have specifically requested original unredacted documents.

Providing our advisory team with documents that contain unnecessary personal data about patient(s) may delay our ability to respond quickly as we may need to remove identifying details from incoming correspondence before passing it on to an adviser.

Sending information to our claims or legal teams

Generally, documents sent to our claims handling or legal teams should be sent securely in their original form with no information removed.

Please ensure that information sent via storage media devices (CDs, USB sticks, etc) are encrypted before being sent to us.

Added security for your peace of mind

In certain circumstances, when dealing with highly sensitive or confidential information, we may want to send you content using Egress email encryption software. In these circumstances we will contact you with further details on Egress encryption.

Complaints

We do everything we can to provide an excellent service, but there might still be times when you feel you have cause for complaint. If so, we'll try to resolve your complaint as quickly and fairly as we can. If you need to make a complaint about any aspect of our service, please contact the relevant team:

Membership

membershipcomplaints@themdu.com
1800 509 132

Legal

legalcomplaints@themdu.com
+44 20 7202 1500

Medico-legal

advisory@themdu.com
1800 535 935

Claims

claims@themdu.com
+44 20 7202 1500

You can also write to us by addressing your letter to 'Head of membership', 'Head of legal services', 'Head of medico-legal services' or 'Head of claims handling' and sending it to our main postal address:

MDU Services Limited
One Canada Square
London E14 5GS
United Kingdom

Data protection officer

If your complaint relates to the way your personal information was handled, contact the data protection officer at dataprotectionofficer@themdu.com, or by writing to us at the above address.

For further information about the MDU complaints procedure, please see themdu.com/about-mdu/complaints

Keeping you up to date

Keeping you up to date – what to expect

To help you make the most of your membership we'll send you emails:

- With guidance and advice.
- About member services and benefits (including those we offer with third parties).

You can choose not to get these emails when you apply for membership, and you can also change your communication preferences at any time.

As well as these emails, we may also send you emails to help administer your membership, including renewal.

This 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.

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

Medico-legal helpline

t 1800 535 935

e advisory@themdu.com

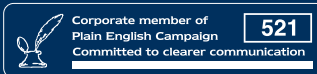
Your feedback

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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