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**FIPO**

federation of independent  
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# **PROFESSIONAL MEDICAL INDEMNITY**

## ***A FIPO CONSULTANT SURVEY***

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# PROFESSIONAL MEDICAL INDEMNITY

## FIPO CONSULTANT SURVEY - 2011

### INTRODUCTION

In 2011 the Federation of Independent Practitioner Organisations (FIPO) commissioned a fully independent inquiry in to professional medical indemnity and the role of the Medical Defence Organisations (MDOs) and commercial insurers. As part of this overall investigation FIPO carried out a separate survey of consultant attitudes and perceptions of their medical indemnity.

### 1. FIPO CONSULTANT SURVEY - METHODOLOGY

A SurveyMonkey™ questionnaire was set up for consultants; this study excluded General Practitioners and other doctors. The survey site was managed by an independent expert who provided reports and analysis as requested. All participants were guaranteed anonymity and were allowed space to make freehand comments. Not every question was answered by all consultants as some questions were not directly relevant to all the participants.

The consultant survey covered the broad demographic background of the participants, their income levels and the changes in their income and professional indemnity premiums over the last three years. Included in the survey were questions about the consultants' recent history of complaints, negligence claims, GMC referrals or other issues. The questionnaire was also constructed to test the participants' knowledge of their own indemnity, the levels and details of their professional insurance, the benefits or otherwise of changing their insurance and their motivation in so doing.

A request for consultants to participate in the Consultant Survey was circulated by email to consultants via the FIPO membership organisations. It is not possible to assess the full target audience and therefore the level of participation of consultants.

### 2. FIPO CONSULTANT SURVEY RESULTS – PARTICIPANTS' BACKGROUND

#### 2. a) Consultant Demography

A total of 913 consultants from around the UK took part but 10 non consultants were excluded leaving 903 for the analysis of results.

92.9% of participants were male. There was a wide range of different specialty backgrounds but a strong preponderance of surgeons (77.7%). The average age was 50 years.

There was a good geographical spread of consultants from around the UK with the largest group coming from within the M25 boundary (29.7%).

#### 2. b) Consultant NHS and Independent Practice Status

88.8% of consultants currently had an NHS appointment and only 3.7% had never held an NHS consultant appointment; the others had previously had an NHS appointment.

93.5% of participants currently work in independent practice which is the factor that most influences indemnity premiums but all respondents were included in the analysis.

Half of the respondents engaged in medico-legal work. This work accounted for more than half of their private income in a small number (52) which represents 5.7% of the participants to the survey.

### 3. OVERALL CONSULTANT SATISFACTION WITH THEIR PROFESSIONAL INDEMNIFIER

#### 3. a) Satisfaction Scores

When consultants were asked about their degree of satisfaction with their current indemnifier

- 14.9% said excellent
- 38.9% said very satisfied
- 35.2% said fair
- 8.2% said not very satisfied
- 2.8% said not at all satisfied

As there were a relatively high number of consultants in this study who have changed their indemnifier (see 5.a below) this would seem to imply a degree of dissatisfaction with their original indemnifier and possibly satisfaction with their current indemnifier. It is not possible to relate these satisfaction scores to the groups of consultants who have changed as opposed to those who have not changed their indemnifier.

### 4. CONSULTANT UNDERSTANDING OF THEIR PROFESSIONAL INDEMNITY ARRANGEMENTS AND FUNCTIONS

#### 4. a) Contractual, Discretionary, Losses Occurring, Claims Made, Total Cover, Annual Maximum

Two thirds of consultants (65.3%) did not know if their current indemnification was on a contractual or discretionary basis. One third of consultants said that they knew but it is not possible to confirm the validity of their reply.

Just under one quarter of consultants (24.2%) knew if their personal indemnification was on a “loss occurring” or “claims made” basis. Three quarters were unaware (75.8%).

Over half (55.6%) did not know their personal indemnification limits. 10.4% said it was unlimited, 17.7% said it was £10 million and the remainder stated it was less. It is uncertain if these estimations are correct.

Over three quarters of consultants (77.6%) did not know if their indemnity limit was an annual maximum or for each and every claim. 10.4% stated it was an annual maximum and 12.0% said it was for each and every claim.

Almost 70% of consultants were unaware of the percentage of their premiums allocated for non-insurance purposes by their MDO (i.e. risk management, administration, educational seminars etc). Of the remainder who answered this question, the percentage allocated by MDOs was estimated equally through a range from under 5% to 50%. Consultants are also unaware of the percentage of their premiums allocated for claims management (i.e. advisory, legal support etc). The answers are broadly spread over the range from below 10% to 100% of the premiums.

### 5. INDEMNITY PROVIDERS IN THIS SURVEY

#### 5. a) Consultant Changes of Indemnifiers

In this survey 88.5% of respondents belonged to the three traditional Medical Defence Organisations namely the MDU (39.9%), MPS (37.2%) and MDDUS (10.4%). These figures are below the generally accepted number of around 97-99% of doctors belonging to the three main providers. It is unclear whether consultants are different in this respect to other doctors and it seems more likely that a higher than average number of consultants who had changed their MDO had participated in this survey, possibly because their interest in the topic was greater than others.

The actual numbers who have changed their indemnifier in this group of 903 consultants was 275; this is 30.5% of the total respondents. Of these 53.6% had moved from the MDU, 35.6% from the MPS and 7.5% from the MDDUS (with 3.4% moving from another insurer).

### 5. b) When did Consultants Change their Indemnifier?

Consultants have been changing their MDO for several years and in this survey one third (32.8%) made the change over 5 years ago. There has been a recent upsurge of change (46.8%) in the last two years which presumably reflects the arrival of new insurers on the scene.

### 5. c) Why do Consultants Change their Indemnifier?

Several possible reasons were laid out in this question on why consultants had changed their indemnifier and the respondents were allowed to answer all sections. The percentages relate to each sub-question.

259 consultants answered this question and

- 95.5% changed to reduce their premium
- 58.8% changed as the existing provider gave poor value for money
- 53.3% changed on the recommendation of a colleague

Only 17.9% changed because the new insurer gave them better protection and only 5.5% changed because the new insurer gave better benefits in the event of a claim.

Very few changed on the recommendation of a broker (4.3%) or an accountant (4.3%) but slightly more changed on the advice of a medical specialist association (13.8%) which may reflect new specialty driven insurance schemes.

### 5. d) Consultants Rejected or Refused by an Insurer

793 consultants answered this question. A small number (1.4% - 11 in total) have been refused or rejected by an indemnifier. As 120 consultants skipped this question the percentage figure may be smaller. The reasons given in freehand text were varied; some had no reason, some because they were going to work abroad and just one for a claim refused in an NHS case.

## 6. PRIVATE PRACTICE VOLUMES, CLAIMS RECORD AND TRENDS IN INCOME AND INDEMNITY PREMIUMS

### 6. a) Private Practice Volumes

Over 60% of consultants treated less than 500 patients each year. 70% of consultants spent 3 sessions or less a week in private practice.

### 6. b) Claims Record

In the last 5 years 42.5% (337 of 793 respondents to this question) had not needed to contact their indemnifier. In the same period

- 55.1% (437) had contacted their indemnifier between 1 to 5 times
- 2.0% (16) had contacted their indemnifier between 6 to 10 times
- 0.3% (1) had contacted their indemnifier over 11 times

### 6. c) Overall Record of Clinical Negligence Claims

Of the 793 consultants answering this question 49.8% had never had a clinical negligence claim against them. 34.7% had a claim in the NHS and 26.7% in the independent sector.

### 6. d) Frequency of Clinical Negligence, GMC and Patient Complaints and Hospital Disciplinary Proceedings

These 793 consultants gave a more detailed claims history.

In the last 5 years on 1 or 2 occasions;

- 28.6% (227) had been involved in a clinical negligence action
- 9.1% (72) had been involved in a GMC complaint
- 19.7% (156) had been involved in a patient complaint
- 2.6% (21) had been involved in a hospital disciplinary proceeding

in the last 5 years on 3 or 4 occasions;

- 3.3% (26) had been involved in a clinical negligence action
- 0% (0) had been involved in a GMC complaint
- 2.9% (23) had been involved in a patient complaint
- 0% (0) had been involved in a hospital disciplinary proceeding

In the last 5 years on 5 or more occasions;

- 0.4% (3) had been involved in a clinical negligence action
- 0.1% (1) had been involved in a GMC complaint
- 1.0% (8) had been involved in a patient complaint
- 0.1% (1) had been involved in a hospital disciplinary proceeding

It was not possible to identify if the same consultants were making claims in all these subcategories.

#### 6. e) Gross Private Practice Income

The range of income was wide with a bias to the upper earnings bracket compared to other national statistics of consultant income. Thus

- 45.7% earned less than £100,000 per annum
- 31.4% earned between £100,000 and £250,000 per annum
- 22.8% earned more than £250,000 per annum

#### 6. f) Current Indemnification Premiums

The annual premiums for consultants were spread and

- Just over a third (35.9%) were paying up to £10,000
- A similar number (38.3%) were paying between £10,000 and £25,000
- Almost a quarter (23.6%) were paying above £25,000 per annum
- 2.2% did not know how much they were paying

A specialty bias was shown by the fact that 60% of obstetricians were paying more than £50,000 per annum for indemnity compared with 5.7% of the other specialties although the general gross income was similar.

#### 6. g) Changes in Gross Consultant Income and Indemnity Premiums in the last 3 years

Gross independent practice income had risen in 33.9% of consultants and

- had fallen in 32.3%
- had remained the same in 26.9%

Changes in MDO insurance premiums over the last three years did not reflect income changes as premiums had risen in 70.9% of consultants and

- had fallen in 15.8%
- had remained the same in 13.3%

It was not possible to directly relate the annual premiums to the annual gross earnings or to the claims or complaints history in this survey.

#### 6. h) Consultants views on an Excess to their Indemnity

Consultants were asked if they would contribute to a claim if it would reduce their premiums and how much they would be willing to pay each year.

- 43.9% said nothing
- 27.1% said £ 1,000
- 10.9% said £ 2,500
- 12.1% said £ 5,000
- 5.9% said £10,000

## CONCLUSIONS

- I. This survey is large but the results must be interpreted with caution as there are certain biases. Only the Medical Defence Organisations and insurers can provide accurate data and this is generally not forthcoming.
- II. In terms of possible biases in this survey there are a significant number of respondents with no independent practice (6.5%) and some with a predominantly medico-legal practice (5.7%). Both of these factors might tend to lower indemnity premiums. However, as there may a number of consultants who appear in both these sub-groups a combined number would be an over-estimate.
- III. There was a surgical bias in the specialty spread of the respondents and a generally high gross level of income which may tend to raise average premium income. This surgical bias might also affect the claims record reported here which has not been broken down in to specialty groupings but presented as an overall summary.
- IV. Another bias in this survey would appear to be the high percentage of consultants (31.9%) who have changed their indemnifier. It is unclear if this figure is representative of the total consultant community but this seems unlikely. However, it did allow a more detailed analysis of the consultants' motives in changing their indemnifier.
- V. Consultants are changing their indemnifier predominantly to reduce the costs of their premiums or because they have a perception of getting poor value for money. It is uncertain whether all consultants appreciate the risks / benefits of such a change.
- VI. There has been a general rise in overall premium rates in the last 3 years. A general analysis of the figures shows that this trend of increasing premiums is outstripping any increases in gross consultant income.
- VII. The current cost of the high risk (or claims paid) specialties such as obstetrics is making independent practice extremely difficult.
- VIII. The claims record of consultants in this survey shows a very small number who have made frequent claims on their indemnifier in the last 5 years whereas just about half of all consultants have never in their career made any claim at all.
- IX. The concept of paying an excess in order to reduce annual premiums is not particularly attractive to consultants although the precise saving on the premium was not defined.
- X. The overall satisfaction of consultants with their current indemnifier on direct questioning is quite high. However, the freehand comments of the participants show that there is a roughly equal split between those who are pleased and those who are dissatisfied with their indemnifier. The high and rising cost of indemnification is the main concern and young consultants are finding difficulty in starting practice whilst established consultants in certain front line specialties such as obstetrics are ceasing practice because of high indemnity charges. Several consultants object to paying for others with a poor claims history; many complain about a desultory service from their indemnifier whilst others say it is excellent.
- XI. Consultants have poor understanding of their indemnification terms and conditions (claims made or losses occurring) and whether or not they have a contractual or discretionary relationship with their indemnifier. Only a few have knowledge of the limits of their indemnity. Consultants have a very poor knowledge of how their premiums are spent by their insurer whether for non-insurance purposes and administration or exactly what percentage is paid out for claims management.
- XII. Professional and financial guidance by a FSA regulated broker or other professional would appear to be a sensible way forward for any consultant wishing to change or review their professional medical indemnity.