



PERTH AND KINROSS INTEGRATION JOINT BOARD

6 November 2015

CLAIMS, LIABILITY AND INDEMNITY COVER

Report by Chief Officer

PURPOSE OF REPORT

This report advises the Board about the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) and recommends that the Board applies to join the Scheme to ensure appropriate liability and indemnity cover.

1. BACKGROUND

- 1.1 Following establishment of the Board, the Board has become responsible for delivery of the integrated functions. Operational delivery of services will still be carried out by the Health Board and Council as the Board will direct the Partners to deliver the Integrated Functions on its behalf.
- 1.2 The Integration Scheme sets out the general arrangements for dealing with claims and liability as between the Partners. As the Partners will be operationally delivering services through their respective employees, most claims which arise will be dealt with by the Partner responsible for delivering the service, as was the case before integration.
- 1.3 However, there is a low risk that a claim could be made against the Board in respect of decisions made in the course of its business. It is therefore important that appropriate cover is in place in respect of any claim made against the Board and Members.
- 1.4 A review was undertaken of the two options anticipated to be available to the Board for the appropriate cover required. The two potential options being the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) currently in operation for NHS organisations and available to Health and Social Care Integrated Joint Boards and insurance from the commercial sector.

2. Clinical Negligence and Other Risks Indemnity Scheme (CNORIS)

- 2.1 CNORIS is a risk transfer and financing scheme, which was established in 1999 for NHS organisations in Scotland. It provides a cost-effective approach to 'insuring' the NHS against claims made against it. NHS National Services Scotland is the scheme manager and its primary objective is to provide effective risk pooling and claims management arrangements for Scotland's NHS Boards and Special Health Boards.
- 2.2 The scope of the Scheme has now been widened to include social care functions. In order to share the cost fairly between Members, clinical and non-clinical risk profiles are created which determine relative risks for each Member organisation.
- 2.3 The Scottish Government Health and Social Care Directorate (SGHSCD) fund all large losses (i.e. those that breach CNORIS scheme deductibles, which is the equivalent of the policy excess in insurance terms) during each financial year.
- 2.4 The total annual deficit is then shared between Members according to their proportion of the overall risk. At the end of the financial year, CNORIS collects funds from members to pay back the deficit accrued in-year by SGHSCD. In order to share the cost fairly between members, clinical and non-clinical risk profiles are created which determine relative risks for each organisation. The total annual deficit is then shared between members according to their proportion of the overall risk.
- 2.5 However, contributions from Integration Joint Boards (IJBs) are currently fixed at £3,000 per annum and there is no additional contribution payable regarding any annual deficit at this point in time. It should be noted that CNORIS is not an insurance policy.
- 2.6 The level of indemnity cover provided by CNORIS to Member organisations relates to Employer's Liability, Public / Product Liability and Professional Indemnity type risks (inter alia). The level of cover provided is at least £5m Public Liability, £10m Employers Liability, and £1m Professional Indemnity; "Indemnity to Principal" will also be provided where required. CNORIS also provides cover in relation to Clinical Negligence
- 2.7 The risks associated with Integration Joint Boards (IJBs) membership of CNORIS is considered low and therefore an annual contribution of £3,000, payable, in arrears, each financial year has been set. The contribution level has been assessed at this level due to the limited risks anticipated in relation to the statutory status of IJBs and CNORIS cover being provided in relation to indemnity for IJB Board members and officials only.

- 2.8 Membership of CNORIS is open to the Board. As stated in 2.7 above this would provide cover in respect of any claim made against the Board itself in terms of Officers and Officials Indemnity.
- 2.9 The cost of joining the CNORIS Scheme is currently fixed at £3,000per annum and is likely to be a better option than sourcing commercial insurance, particularly where the risk of claims is low.
- 2.10 Applications for membership to CNORIS is by submission the Scottish Government and be in accordance CNORIS Amendment regulations 2015 – SSI 2015/102, which outlines the required information for joining the scheme by IJBs. The Perth and Kinross IJB application submission has been completed and awaits approval by the SGHSCD.
- 2.11 Research has provided evidence that a number of other Integrated Joint Boards have either joined the CNORIS scheme or will be applying shortly to become members of the scheme.

3 ALTERNATIVE COVER FROM THE COMMERCIAL MARKET

- 3.1 Perth and Kinross Council's insurance broker has investigated options for cover in respect of the IJB Board members. This included discussing cover with commercial insurers who advised that they wouldn't provide cover due to the Council members being treated as individuals. As the IJB is set up in such a way that each person who sits on the Board is individually responsible then then this would require each Board member to have their own individual insurance. At the present time we have been advised that no commercial insurers have arrangements suitable.

4. CONCLUSION AND RECOMMENDATION

- 4.1 It is recommended that the Board apply to become a member of the CNORIS Scheme.

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