

BAOT Malpractice & Professional Liability and Public & Products' Liability Insurance



1st October 2020 to 30th September 2021

As part of your BAOT membership benefits you are covered by insurance that provides Malpractice & Professional Liability cover and Public & Products' Liability cover in respect of occupational therapy work (as defined by the Royal College of Occupational Therapy).

This covers all members whether "employed" or "self-employed" including private practice work.

Please note the cover is to protect the members only and not their employers (who ought to have their own insurances) and not any corporate entities (which again should have their own cover).

As previously, the policy includes a warranty and a condition precedent which support good practice in the areas of preventing cross infection and record keeping, and exclusions to the policy, which you should be aware of. A brief summary is set out in the "Summary of Liability Insurance" below. As previously, the underwriters require some special conditions and exclusions to the policy of which you should be aware.

If you have any enquiries regarding the insurance or would like a copy of the full Master policy, then please contact the Aon team - Richard Lloyd richard.g.lloyd@aon.co.uk (0116 280 7069) or Bob Litchfield bob.litchfield@aon.co.uk (0116 280 7041) or Rainer Tilley rainer.tilley@aon.co.uk (0116 280 7552)

Summary of Liability Insurance

Insurers: AXIS Managing Agency Ltd (AMAL) and AXIS Specialty Europe SE (ASE)

Cover: A) Malpractice & Professional Liability

 B) Public Liability

 C) Products' Liability

A) Malpractice & Professional Liability

any negligent act error or omission committed by the Insured or by any employee of the Insured or by any person or organisation acting on behalf of the Insured when so acting, in the course of services contractual obligations, or voluntary services undertaken by the Insured to a patient or patients in or about the conduct of the Insured's Occupation/Business as stated in the Schedule) , including Good Samaritan Acts or voluntary services.

B) Public Liability

any bodily injury, mental injury, illness, wrongful arrest or false imprisonment, disease or death of or to any person, or loss of or damage to tangible property of any person arising directly from the conduct of the Insured's Occupation/Business as stated in the Schedule including the provision of food and drink.

C) Products' Liability

any bodily injury or disease or loss of or damage to tangible property and arising out of any goods or products designed, manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured arising directly from the conduct of the Insured's Occupation/Business as stated in the Schedule.

NB “the Insured” is defined as a member of the British Association of Occupational Therapists

“the Insured’s Occupation/Business as stated in the Schedule” is defined as the provision of normal services acceptable to the British Association of Occupational Therapists

Basis: “Loss occurring” (including “run off” cover for those members who were previously insured under the BAOT insurance - including retired and/or non-practising members - when it was on a “Claims made” basis).

NB. Members should remember that if they end their subscription their insurance cover will cease automatically

Insured: Any member of the British Association of Occupational Therapists, whilst undertaking Occupational Therapy work.

The term member where used in the policy shall mean:

- a) an occupational therapist professional member of the British Association of Occupational Therapists (BAOT) who has an Occupational Therapist qualification.
- b) a student member of the British Association of Occupational Therapists who is training for an Occupational Therapist qualification by any approved route.
- c) an associate member of the British Association of Occupational Therapists who is engaged in case work within the recognized definition of professional services (but who is not qualified to be a professional member) and whose procedure has been agreed by a qualified Occupational Therapist.
- d) a retired member who no longer practices as an occupational therapist but who has previously been an occupational therapist professional member/associate member of the British Association of Occupational Therapists (BAOT) for at least one year.

NB: The policy insures the member and not their employer or any corporate entity

Indemnity to Other Persons: In the event of the death of the insured member the personal representative(s) of the insured member

Indemnity limit: For claims occurring before 1st October 2020 £6,000,000 any one claim per member, defence costs and expenses in addition and £6,000,000 in the annual aggregate per member, defence costs and expenses in addition
For claims occurring after 1st October 2020 £10,000,000 any one claim per member, defence costs and expenses in addition and £10,000,000 in the annual aggregate per member, defence costs and expenses in addition

Geographical Limits: Whilst the policy cover operates worldwide excluding USA/Canada **this insurance only responds to claims first made or suit filed in Great Britain, Northern Ireland, Channel Islands, Isle of Man, and the European Union and will pay damages awarded by courts of these countries.**
Members based in other territories should check whether there is a legal requirement to arrange local cover



British Association of Occupational Therapists

106-114 Borough High Street, Southwark, London SE1 1LB

Email: membership@rcot.co.uk Web: www.rcot.co.uk

Tel (membership): 020 7450 2348

Principal extensions:

- Cross liability clause
- Libel and Slander
- Breach of Confidentiality
- Loss of Documents (up to £5,000 including costs and expenses in any Period of Insurance, such limit to be part of and not in addition to the overall limit of indemnity under the policy in any Period of Insurance)
- Damage to leased hired or rented premises (subject to a £100 excess other than in respect of fire and explosion)
- Health & Safety at Work Act etc 1974 Defence Costs
- Part II of the Consumer Protection Act 1987
- Premises Risk
- Criminal Proceedings Extension
- Disciplinary Hearing Extension

Principal exclusions:

- Liability arising from Hepatitis or any condition directly or indirectly caused by or associated with Human T-Cell Lymphotropic Virus type III (HTLV III) or Lymphadenopathy Associated Virus (LAV) or the mutants derivatives or variations thereof or in any way related to Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome or Methicillin (or Multiple) Resistant Staphylococcus Aureus (MRSA) or Creutzfeldt- Jakob Disease (CJD) or any syndrome or condition of a similar kind
- Any claim in respect of:
 - which the Insured is entitled to indemnity under any other insurance including work done by an Insured as an "Emergency Volunteer" under the Coronavirus Act 2020
 - Express indemnity, warranty or guarantee
 - Failure of any product to fulfil the purpose for which it was designed or to perform as specified
 - Directors' & Officers' Liability
 - Employers' Liability
 - Unlawful or dishonest acts or performance of services under the influence of intoxicants or narcotics
 - Use, ownership or possession of Aircraft, watercraft, hovercraft, vessel, motor vehicle or any other vehicle Motor, Watercraft, Aircraft and other mechanically propelled mobile machinery
 - Seepage, subsidence, pollution or contamination
 - Fines, taxes, penalties or punitive, exemplary or other non-compensatory damages of any kind
 - Failure of computer software or hardware, transmission of any virus etc or business conducted via the internet unless liability would have attached in the absence of the fact that the business was conducted via the internet
 - Any Data Protection regulation
 - Unlawful detention
 - Passing off or breach of copyright, patent or other intellectual property right
 - Any act of Terrorism
 - Structural surveys – any claims involving any structural design, alteration, recommendation or survey unless prior written approval obtained from an independent qualified architect or surveyor



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State Indemnity Clarification Endorsement

For the avoidance of doubt there is no cover under this **Policy**, nor has there ever been historically, for **any Claim** that that is covered by the provisions of CNST (Clinical Negligence Scheme for Trusts), the CNSGP (Clinical Negligence Scheme for General Practice), the CNSC (Clinical Negligence Scheme for Coronavirus) and/or any similar indemnity/scheme/arrangement provided by **an Appropriate Authority**.

Furthermore, this **Policy** shall neither co-insure nor otherwise be brought into any form of contribution in respect of a **Claim** covered by the provisions of the CNST, CNSGP, CNSC and/or any similar indemnity/scheme/arrangement provided by an **Appropriate Authority**.

Cover hereunder excludes **Claims** where the CNST, CNSGP, CNSC and/or any similar indemnity/scheme/arrangement fails to respond, where the extent that such failure is due to the exercise or application of any discretion, right or privilege, where that discretion, right or privilege is exercised or applied after the contents of this **Policy** has become known to those exercising such discretion, right or privilege.

For the purposes of this **Endorsement** an '**Appropriate Authority**' means the
Government
Secretary of State
Welsh Ministers
Scottish Ministers
Department of Health in Northern Ireland
Department of Health and Social Care
NHS Trust
NHS Resolution/Litigation Authority
or similar

Please pay particular attention to the following Warranty which calls for specific action on your part and failure to comply could allow the insurer to refuse to pay claims:

Instruments Warranty

Without prejudice to the generality of the foregoing:

- a) the Insured shall ensure that all clinical waste is disposed of by an appropriately qualified waste disposal contractor;
- b) any device or instrument used or intended for use in the performance of the Insured's professional duties and which is intended to be in contact with bodily fluid (whether human or animal) or penetrate tissue (whether human or animal) shall be:

Handled, used and stored in accordance with the manufacturers' instructions and where approved by the manufacturers and by the Department of Health or equivalent to be used more than once, sterilised prior to such use:-

- a) using only sterilising apparatus specifically approved by the manufacturer and in accordance with instructions, recommendations or guidelines of such manufacturer
- b) in accordance with Department of Health guidelines or equivalent

In addition, any surface which such device or instrument are likely to come into contact with or which has been in contact with any bodily fluid (whether human or animal) or tissue (whether human or animal) shall be disinfected by the use of an effective disinfectant in accordance with the manufacturers' instructions and Department of Health guidelines or equivalent



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The following Conditions precedent must be adhered to – failure to do so may result in the Insurer being unable to deal with your claim.

Conditions precedent:

- During the period of this Insurance the Insured shall give immediate notice in writing of:
 - a) any Claim or Loss occurring for Malpractice or alleged Malpractice, or
 - b) any Claim or Loss occurring for Professional Liability or alleged Professional Liability, or
 - c) any Claim or Loss occurring for Public Liability or alleged Public Liability, or
 - d) any Claim or Loss occurring for Products Liability or alleged Products Liability, or
 - e) the receipt of notice from any person of an intention to hold the Insured responsible for any Malpractice, Professional Liability, Public Liability, or Products Liability.
 - f) any conduct or circumstance which is likely to give rise to a Claim for Malpractice, Professional Liability Public Liability or Products Liability being made against the Insured;to the person(s) named in the Schedule (see below).
- Student members must not offer treatments outside of their capabilities which at all times must be governed by the phase reached in their training programme and their tutor's assessment.
- The Insured at all times shall:
 - a) maintain accurate descriptive records of all professional services and equipment used in procedures which shall be available for inspection and use by Insurers or their duly appointed representatives insofar as they pertain to any Claim hereunder; and
 - b) retain the records referred to in 5(a) above for a period of at least seven (7) years from the date of treatment and, in the case of a minor, for a period of at least (7) years after that minor would attain majority; and
 - c) give to the Insurers or their duly appointed representatives such information, assistance, signed statements or depositions as Insurers may require; and
 - d) assist in the defence of any Claim without charge to the Insurers.
- It is a Condition Precedent to the right to be indemnified under this Policy that students undertaking work in Australia must obtain full indemnity from the employer/care facility/hospital, and at all times be supervised by a qualified Occupational Therapist

For Your Information

A separate policy number applies in respect of members in Australia (052270MMA20G). It is hereby noted and agreed that (subject to policy terms, conditions and limitations), in the event of a claim being made under this insurance, the circumstances of which also give rise to a claim under Policy number (052270MMA20G) then Insurers liability in respect of such claims or circumstances combined, shall in no event exceed GBP 6,000,000 in all with defence costs and expenses in addition (or for claims after 1st October 2020 GBP 10,000,000 in all with defence costs and expenses in addition), notwithstanding the individual limits of Indemnity shown hereunder and/or under Policy number (052270MMA20G). Further, having resolved any ultimate claim settlement(s) arising out of the matters in question, Insurers retain the right to apportion such liability/settlements/payments under this Policy and/or under Policy number (052270MMA20G) at their sole discretion.



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Claims

During the period of insurance all claims/potential claims must be notified without delay to: Richard Lloyd richard.g.loyd@aon.co.uk or Bob Litchfield bob.litchfield@aon.co.uk

Complaints

Should you have a complaint about this policy or the handling of a claim, please in the first instance contact: Richard Lloyd richard.g.loyd@aon.co.uk or Bob Litchfield bob.litchfield@aon.co.uk

Who will provide you with full details of the complaints process and your rights of escalation should you remain unhappy with the outcome of your complaint.

Richard Lloyd Client Service Manager Aon UK Ltd Mercury Place 11 St. George Street Leicester LE1 1DR	Bob Litchfield Client Manager Aon UK Ltd Mercury Place 11 St. George Street Leicester LE1 1DR
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