 National Policy <input type="checkbox"/> National Procedure <input checked="" type="checkbox"/> National Protocol <input type="checkbox"/> National Guideline <input type="checkbox"/> National Clinical Guideline <input type="checkbox"/>			
HSE National Procedure for requesting indemnification for individuals required to support commissioned reviews			
DOCUMENT GOVERNANCE ¹			
Document Owner (post title):		Dr Orla Healy Clinical Lead - National Quality and Patient Safety	
Document Owner name:		Dr Orla Healy	
Document Owner email contact: <i>(Generic email addresses only for the Repository)</i>		QRS.Tullamore@hse.ie	
Document Commissioner(s): (Name and post holder title):		National Quality and Patient Safety	
Document Approver(s): (Name and post holder title):		Dr Orla Healy Clinical Lead - National Quality and Patient Safety	
Development Group Name:		Quality and Patient Safety Incident Management Team with support from HR, safeguarding and indemnity.	
Development Group Chairperson:		Lorraine Schwanberg Assistant National Director Quality and Patient Safety Incident Management	
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¹ Records the senior management roles involved in the governance and development of the document.

² Records the control information about the document.

VERSION CONTROL UPDATE ³		
Version No. (most recent version first)	Date reviewed (most recent date first)	Comments (1 sentence max, if required)
7	October 2025	Additional guidance provided in relation to indemnity for Section 39 organisations and the management of indemnity requests for reviews and investigations being carried out under various HSE PPPG's
6	30/10/25	Version 6 archived directly with document owner

PUBLICATION INFORMATION ⁴
Topic:
Indemnity cover for system analysis reviews
National Group:
Quality and Patient Safety Incident Management Team
Short summary:
It is the policy of the HSE to ensure that persons required to carry out and or support reviews and investigations are appropriately indemnified to carry out this work
Description:
The purpose of this procedure is to set out the arrangements for when and how services should seek indemnity for persons undertaking or supporting reviews or investigations under the relevant HSE procedure that fall outside the clinical or general indemnity scheme.

³ Records details when a document is reviewed, even if no changes are made.

⁴ Records the document information required for publication on the HSE National Central Repository.

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1.0 Introduction

The HSE has a number of policies and procedures which govern the review and investigation of incidents, accidents, complaints and allegations. In addition reviews may be undertaken under other processes e.g. service reviews.

It is the policy of the HSE that in so far as is practicable, persons required to carry out/support reviews and investigations under the auspices of these policies, procedures and processes are identified by the commissioner of that review. This includes arrangements for the identification and participation of persons who are not HSE employees but are internal to the jurisdiction (e.g. retired HSE staff, individuals from voluntary hospitals or other agencies) or are external to the jurisdiction e.g. from England. It is important that appropriate indemnity arrangements are in place for individuals undertaking this work on behalf of the HSE.

Indemnity is granted by the Department of Public Expenditure and Reform (DPER) in line with the Civil Service Conciliation and Arbitration Scheme General Council Report 1357, which states that:

A civil servant shall be indemnified against any reasonable legal expenses necessarily incurred by him/her and against any damages and/or costs awarded against him/her in the event of civil proceedings being taken against him/her arising out of the manner in which s/he discharges his or her duties, provided that an examination of all the circumstances (including the outcome of such proceedings) establishes that s/he acted bona fide in the execution of his/her duties and did not act with gross negligence or gross neglect of his/her duties.

The indemnity is therefore not directly granted by the HSE as this is not its function, but the relevant office has been given the authority by DPER to issue letters confirming indemnity. The indemnity is specific to work done for the HSE, as agent of the State. It does not apply to private contractors/companies who should seek their own indemnity for their staff.

Where indemnity is sought by a voluntary organisation such as a Section 38 organisation, then the HSE must specifically write to DPER to put forward the request. DPER will make the determination if indemnity will be granted.

In engaging these individuals, commissioners must be cognisant of the requirements of the standard procurement procedures as laid out in the National Financial Regulations and ensure that these are applied appropriately.

This procedure sets out the process for obtaining indemnity in circumstances where it has been identified as required by the Commissioner of the Review

2.0 Scope

This procedure relates exclusively to the application for indemnity of persons identified as suitable persons to partake in a commissioned review/investigation carried out in the context of the relevant HSE policy, procedure or process.

These reviews must be conducted in line with an agreed Terms of Reference. These may be in draft format as the review team will likely contribute to finalising the Terms of Reference including the person for whom indemnity is being sought

Indemnity is being provided on the basis that the review is being undertaken at the request of the HSE/HSE governed agency under the appropriate HSE policy/procedure/guideline. The Commissioner is responsible for ensuring that the review is appropriately governed and is supported by an appropriate Terms of Reference

DEPR sanctioned indemnity does not apply:

- Where the participating person is an existing HSE employee and has been assigned these duties by the HSE. In this instance the person is indemnified for participation under the existing HSE indemnity i.e. there are no additional indemnity arrangements required.
- Where persons are employed by a third party to undertake a review. In these cases their employer is responsible for their employee's indemnity. Commissioners of reviews should seek confirmation that indemnity is in place

DEPR sanctioned indemnity does apply where:

- An individual not currently employed by the HSE or a third party (e.g. retired individuals, staff working for voluntary hospitals or external to the jurisdiction) is sourced by the HSE to participate in a review/investigation process on behalf of the HSE.

3.0 Prerequisites to making the indemnity application

It is the responsibility of the commissioner of the review to ensure:

- 3.1 That the review is appropriately governed i.e. has been commissioned appropriately and is supported by an appropriate Terms of Reference.
- 3.2 That the requirements of the National Financial Regulations have been considered and appropriately applied.
- 3.3 Contractual arrangements and adherence to relevant obligations must be observed by the service responsible for commissioning the review or investigation.
- 3.4 That the nominated person has the required knowledge and skills to carry out the work.
- 3.5 That the nominated person has no known conflict of interest in relation to the matters under review.
- 3.6 That the role of the nominated person has been clarified with them and that they are informed about the requirements of their role.
- 3.5 That appropriate indemnity is in place for the individual(s) concerned
- 3.7 That the nominated person(s) have not commenced working on the review prior to the indemnity being arranged.
- 3.8 That the proposed review process is being carried out in conformity with the relevant HSE policy, procedure or process
- 3.9 Quality assurance processes are undertaken for work completed by the reviewer.

4.0 Process for application for indemnity

The process to request indemnity for persons who require indemnity to participate

in a review/investigation being undertaken under the relevant HSE policy, procedure or process is as follows:

- 4.1 The commissioner must complete the form in Appendix 1 and submit via the locally agreed governance structures to the Relevant corporate office i.e. QPS Incident Management, HR, etc. **(See Section 5.0)**
- 4.2 In the case of nominees identified through the Irish Forum for Post Graduate Training Bodies for participation in a review under the Incident Management Framework and where indemnity is required, a completed indemnity request form is not required (as relevant information has been obtained from the service in the request form to the Irish Forum for Post Graduate Training Bodies). However, the service must make the request for indemnity in writing, via email, to QRS.Tullamore@hse.ie.
- 4.3 The relevant corporate office and the assigned staff processing the indemnity requests will review the application form to ensure that it meets the required standard i.e. that:
 - 4.4 All fields on the form have been completed
 - 4.5 The request for indemnity is being made in relation to a review being undertaken in line with the relevant HSE policy, procedure or process
 - 4.6 The request is for a person in scope of such reviews
 - 4.7 The request is being made by a HSE organisation or HSE-funded organisation (section 38 specifically)
 - 4.8 The corporate office will complete the letter of indemnity (Appendix 2) and forward this to the review Commissioner for onward circulation to the review team member(s).
 - 4.9 Where a request is received for indemnity from Children's Health Ireland (CHI) or a Section 38 organisation, either via email (if expert is sourced via the Forum) or via an indemnity request form, this request must be sent to DEPR for consideration.
 - 4.10 Where a nominee is identified through the Irish Forum for Post Graduate Training Bodies the indemnity letter in Appendix 3 must be completed as this includes an indemnity for the Forum who nominated the individual.
- 4.11 The relevant corporate office is responsible for ensuring that a record is kept of all indemnities issued by that office

5.0 Contact details for nominated persons for indemnity

Type of review	Contact details for the relevant corporate office
Reviews being undertaken under the HSE Incident Management Framework 2020 (and other suitable requests not within the remit of HR or Safeguarding)	Email: QRS.Tullamore@hse.ie
Reviews being undertaken the HSE Safeguarding Policy	Chief Social Worker HSE Email: csw@hse.ie
Reviews being undertaken under a HSE Human Resources Policy	info.t@hse.ie or via Regional Directors of People for local service queries or requests re indemnity

6.0 Claims

If at any stage it becomes likely that a claim might be made in relation to the person nominated to undertake a review or the review process as a whole, the relevant corporate office must be immediately notified so that this can be communicated to the indemnifier.

7.0 Revision

This procedure will be reviewed every three years or sooner if changes to the procedure are indicated.

9.0 Appendices

Appendix 1 – Application Form to request indemnity

Appendix 2- Standard Letter of Indemnity

Appendix 3 - Letter of indemnity for Nominee identified through the Irish Forum for Post Graduate Training Bodies

Appendix 4 - Appendix to the General Council Document

Appendix 5 - Membership of the Development Group

Appendix 6 – Membership of Approval Governance Group

Appendix 7- National Audit Tool

Appendix 1 – Application Form to request indemnity

Application for indemnity of non-HSE staff to participate in reviews⁵ who have been sourced by the Commissioner of the Review

Section 1: General Details:

Date of Request:	
Review Reference number: Insert the NIMS number or the agreed identifier for the review	
Name of Organisation seeking Indemnity:	
Name of the Commissioner of the Review:	
Description of the Review: Provide a brief description of the review/investigation/process being undertaken to include reference to the policy, procedure or process under which the review is being commissioned	

Section 2: Information on the Expert undertaking the review:

Name of Expert:	
-----------------	--

⁵ This form does not apply to applications being made through the Forum of Irish Medical Post-Graduate Training Bodies (FPGTB)

Specialty of Expert:	
Expert's current place of work (if applicable):	
Role of the Expert in the review Clearly state the role that the expert is being asked to undertake as part of the review process	
Is the expert employed by a third party Enter Yes or No	

Signed: to be signed by the Commissioner	
Position/title:	
Date:	

Appendix 2- Standard Letter of Indemnity



Reference Number:

Address of sender

Date:

Dear <name of nominated person to undertake review >

I refer to your appointment to conduct a review of <enter review reference number here e.g. NIMS ref no 12345> commissioned by <enter Commissioner Name and title and function/service here> and the provision of an indemnity in respect of the performance of these duties.

The HSE has been advised that in line with normal practice in matters of this nature, the Department of Public Expenditure and Reform has no objection to the indemnity contained in the appendix to General Council Report 1357 (<http://circulars.gov.ie/pdf/general-council/finance/1999/1357.pdf>) being provided for any external members of Reviews/Investigations for duties carried out in the course of the Review / Investigation.

This sanction is given on the basis that the indemnification only applies to the official duties undertaken by the external members and that they carry out their duties in a bona fide manner.

Yours sincerely,

Name of nominated person for indemnity requests – corporate office

Appendix 3 - Letter of indemnity for Nominee identified through the Irish Forum for Post Graduate Training Bodies



Reference Number:

Address of sender

Date:

Dear <name of nominated person to undertake review>

I refer to your appointment to conduct a review of <enter review reference number here e.g. NIMS ref no. 12345 > commissioned by <enter Commissioner Name and title and function/service here > and the provision of an indemnity in respect of the performance of these duties.

The HSE has been advised that in line with normal practice in matters of this nature, the Department of Public Expenditure and Reform has no objection to the indemnity contained in the appendix to General Council Report 1357 (<http://circulars.gov.ie/pdf/general-council/finance/1999/1357.pdf>) being provided for any external members of Reviews/Investigations for duties carried out in the course of the Review / Investigation.

This sanction is given on the basis that the indemnification only applies to the official duties undertaken by the external members and that they carry out their duties in a bona fide manner.

This sanction also applies to <Enter name of the Faculty who nominated the reviewer> who provided the nomination for the member of the review team.

Yours sincerely,

Name of nominated person for indemnity requests – corporate office

Appendix 4 Appendix to the General Council Document

Civil Service Conciliation and Arbitration Scheme

General Council Report 1357

(Meeting/s of 31 March 1999, 26 May 1999, 30 June 1999, 28 July 1999)

That all professional and technical staff be indemnified by the State, as employer, against all costs of defending legal actions in cases of alleged negligence in the performance of their work and against any damages awarded as a result of any such action.

General Council Report No. 1357 (Meetings of 31 March, 26 May 1999, 30 June and 28 July 1999).

Claim that all professional and technical staff be indemnified by the State, as employer, against the costs of defending legal actions in cases of alleged negligence in the performance of their work and against any damages awarded as a result of such action

1. The Staff Side said that the current situation whereby officers were not indemnified in advance in respect of legal proceedings that might be taken against them as a result of allegations of negligence etc. arising during the course of their work was creating difficulties for them. Some officers were expressing concerns that they would be unwilling to undertake certain types of work out of fear of being sued and not knowing, in advance, what their position would be in relation to any costs or damages arising from any legal proceedings taken against them personally. If they were employed in the private sector, they would be covered by their employers insurance. However, because the State carried its own insurance, this did not apply in the civil service. The Staff Side said that some officers had been threatened with being sued to intimidate them. They also referred to the specific indemnification arrangements that had been agreed for Data Controllers.

2. The Official Side pointed out that it was not normal policy to grant advance indemnities to civil servants in respect of legal actions taken against them arising from the performance of their duties - the usual practice was to await the conclusion of an action before taking decisions on the recoupment of costs (if any) incurred by the Officer concerned. While the State does not guarantee its support before the facts of a case are established, in practice, once the legal proceedings are completed, claims for recoupment of expenses are dealt with in a supportive

and sympathetic manner. The Official Side also said that the Data Controllers had been treated differently as an exceptional arrangement because of their particular status under the Data Protection Act.

3. However, in view of the concerns raised by the Staff Side in support of the claim, and the fact that very few cases actually arise, mainly because third parties normally hold the State liable for the manner in which an individual officer carries out his/her duties, the Official Side said that they would be prepared to respond positively to the claim.

4. They indicated that they would draw up a suitable form of indemnity, which, subject to consultation with the Attorney General's Office, would be broadly along the lines of the indemnity for Data Controllers. 5. The form of indemnity is set out in the Appendix to this report. The Staff Side said that they accepted the offer and this report recording agreement was adopted on 20 October 1999.

Noel Gorman William McIntosh Secretary

Secretary Official Side

Staff Side

Appendix to General Council Report No. 1357 – Indemnity

1. A civil servant shall be indemnified against any reasonable legal expenses necessarily incurred by him/her and against any damages and/or costs awarded against him/her in the event of civil proceedings being taken against him/her arising out of the manner in which s/he discharges his or her duties, provided that an examination of all the circumstances (including the outcome of such proceedings) establishes that s/he acted bona fide in the execution of his/her duties and did not act with gross negligence or gross neglect of his/her duties.

2. This indemnity is subject to the following conditions:

(a) the officer concerned must immediately notify his/her Department of the receipt by him/her of any claim, and (b) in appropriate cases, the Chief State Solicitor will act for the civil servant. Where the Chief State Solicitor's Office is so acting, that Office, if necessary after consulting the Attorney General, shall have full discretion as to how the proceedings are addressed including, if it considers it to be the most prudent course of action, the right to settle any cases arising in

advance of or during any Court proceedings. Where it has been decided that it is not appropriate for the Chief State Solicitor's Office (CSSO) to act, but the officer satisfies the conditions referred to in paragraph (1) above, the reasonable legal expenses necessarily incurred by him/her in instructing his/her own solicitor will be recouped in such amount as the Minister for Finance, having consulted the Attorney General, deems reasonable. (For this purpose the officer will instruct his/her solicitor to furnish the Chief State Solicitor with such information as is required by the Attorney General for the purpose of calculating the legal expenses).


This report was adopted on 20 October 1999

Appendix 5 : Membership of Development Group

Membership of [name of Development Group]	
Name	Role and position
Ms Lorraine Schwanberg	Asst National Director National Quality and Patient Safety Office of CCO HSE
Mr Kevin Hartnett	National Finance Division HSE
Mr Joe Madill	Department Expenditure and Public Reform
Donal Hurley	National Safeguarding Office HSE
Chris Rudland	Consumer Affairs HSE
Eamonn Brady	Occupational Health HSE
Margaret Mc Garry	National Quality and Patient Safety IM Team HSE
Norah Mason	Human Resources HSE

Appendix 6: Membership of Approval Governance Group

Membership of [name of Approval Governance Group]	
Name	Role and position

Name: (print)	Dr Orla Healy
Title:	National Clinical Lead, Quality & Patient Safety
Signature: (e-signatures accepted)	
Registration number: (if applicable)	

Appendix 7: National Audit Tool

Methodology: Review of a set number of applications for indemnity received from services annually

Population: A sample of target users

Sampling: A total of 10% or 10 target users, whichever is greater, should be selected.

Frequency: Annually

Method: Record **Y** for **Yes**, if the criteria are met. Record **N** for **No**, if criteria are not met or **N/A** for **Not applicable**.

Compliance requirement: 100%

Is standard/criteria being met for the following statements:	Yes	No	N/A	Evidence
Statement 1 The request for indemnity is being made in relation to a review being undertaken in line with the relevant HSE policy, procedure or process				
Statement 2 The request is for a person in scope of such reviews				
Statement 3 All relevant fields on the request form for indemnity have been completed in full				
Statement 4 The request is being made by a HSE organisation or HSE-funded organisation (section 38 specifically)				
Statement 5 Where a request is received for indemnity from Children's Health Ireland (CHI) or a Section 38 organisation, either via email (if expert is sourced via the Forum) or via an indemnity request form, this request has been sent to DEPR for consideration.				
Statement 6				

A copy of the letter of indemnity has been maintained in the relevant file				
Date of Audit: Audited by (name/title): Compliance Rate %:				
<p>Calculation of Compliance Rate %: The score, expressed as a percentage, is calculated by dividing the number of “yes” and “no” answers. “Not applicable” answers are excluded from the calculation of the percentage score.</p> <p>Example: If there are 6 “yes” and 2 “no” answers, the score is calculated as follows: 6 (yes answers) divided by 8 (total of yes and no answers) multiplied by 100 = 75%</p>				