

Treating elite and professional sportspeople

Background

The treatment of elite and professional sportspeople is recognised as an area of particular risk when it comes to clinical negligence claims. Athletes may have a higher earnings capacity when compared to the average patient, and the impact of a relatively minor injury may be disproportionately significant. In addition to these factors, third parties such as sponsors may have a stake in the sportsperson's well-being. These factors are liable to translate into claims of far greater value than those typically seen for the type of harm sustained or treatment provided.

Medical Protection has produced guidance for specialists/consultants who receive referrals to treat injured professional or elite* sportspeople.

Key messages

- Our advice to specialists/consultants treating sportspeople for injuries incurred during the course of their employment is to ensure that they conduct themselves in such a way that any duty of care is limited to the patient and not the patient's employer.
- In order to minimise their liability, we strongly advise members who treat elite or professional athletes that they should:
 - Not enter into a written or oral contract with a third party (ie someone who is not their patient) to treat a professional or elite sportsperson for reward.
 - Only accept referrals from other independent healthcare professionals, and not from clubs directly or from healthcare professionals working for them.
 - Address any professional fee notes to the patient and not a third party. If fees are to be settled by a third party, the patient should be asked to forward them on. Alternatively, written confirmation may be obtained from the patient that all fee notes should be sent to the club, employer or their medical insurers).
- Medical Protection is unable provide membership for doctors employed by, or contracted to, English Premiership football, English Women's Super League football, English Championship football or Scottish Premiership football clubs/teams, and no member may request assistance in respect of claims brought against them by a third party such as an employing club or team, sponsor or organiser of a sporting competition, or other individual or company that has a financial interest in a sportsperson.
- Members already providing services to patients who are elite or professional athletes should review any contracts held with a third party so that they are aware of their potential liabilities.

* 'Elite professional sport' is defined as sport at regional, national or international level where the result and remuneration (eg via sponsorship) is paramount. An elite sportsperson is considered to be an individual who is employed/contracted as a professional sportsperson, or with the potential to earn money from sport, media or endorsements, such as an amateur gymnast with Olympic potential, or a young member of an academy (eg football/rugby/cricket), currently unsigned but with the potential to become a successful professional sportsperson. Elite professional sport would also incorporate sports where, in the event of litigation, the damages claim would reflect a loss of opportunity to develop to a higher level.