Department for Education (DfE) Risk Protection Arrangement (RPA)

Frequently Asked Questions (FAQs) relating to pupil medical conditions

The following FAQs summarise the cover provided by the RPA and requirements of health and safety legislation, please refer to the RPA Member Rules for full details of the cover provided or the Member's Competent Person in relation to health and safety legislation requirements.

Question No.	Question	Response
1.	What is the extent of third party liability cover provided for medical procedures?	The RPA will provide an indemnity if a Member becomes legally liable to pay for damages or compensation in respect of or arising out of personal injury occurring during the Membership Year within the Territorial Limits and in connection with the provision of medicines or medical procedures. Indemnity will also be provided to any member of staff (other than any doctor, nurse, surgeon or dentist while working in a professional capacity) who is providing support to pupils with medical conditions and has received sufficient and suitable training. Member employed medical professionals, will still need to take out and maintain medical malpractice insurance or indemnity coverages. Cover provided by the RPA will be subject to adherence with the statutory guidance: Supporting pupils with medical conditions at school - GOV.UK (www.gov.uk) This statutory guidance explains how schools should fulfil their statutory duty to "make arrangements" for supporting pupils with medical conditions, in particular, by establishing clear policies for meeting medical needs and having Individual Healthcare Plans which set out what needs to be done, when and by whom, in the case of specific pupils, especially those with more complex health conditions. Where a Member has not complied with the statutory guidance, and can demonstrate mitigating circumstances for not doing so, in the event of a claim the RPA Administrator will consider the circumstances on a case-by-case basis to determine whether cover can be provided.

Question No.	Question	Response
		As with any other activity of the Member risk assessments must be recorded, reviewed and updated periodically. Members should be able to demonstrate that they have followed their own procedures for mitigating risk. To confirm, the RPA cover does not extend to medical negligence / medical malpractice indemnity. If the Member requires medical negligence / malpractice cover then they will need to buy commercial insurance.
2.	Do pre-existing medical conditions of pupils need to be notified to the RPA?	There is no requirement to disclose pre-existing medical conditions to the RPA, however in relation to school trips please note that the RPA will not provide indemnity for trips in circumstances involving someone who is travelling or intending to travel against the advice of a medical practitioner or for the purpose of obtaining treatment. In respect of overseas trips, as long as a person is not travelling against the advice of a medical practitioner the RPA will provide reimbursement of emergency medical treatment including hospitalisation if they are ill in connection with their existing medical condition whilst on the overseas trip. As with all school activities risk assessments would need to be undertaken, recorded and adhered to and take into account the individual's particular medical needs.
3.	What is the extent of third party liability cover provided for first aiders?	RPA will provide indemnity if a Member becomes legally liable to pay for damages or compensation in respect of or arising out of personal injury occurring during the Membership Year within the Territorial Limits and in connection with the provision of first aid. Indemnity will also be provided to any first aider (other than any doctor, nurse, surgeon or dentist while working in a professional capacity) who is providing first aid and has received sufficient and suitable training. Member employed medical professionals, such as doctors and nurses, will need to take out and maintain medical malpractice insurance or indemnity coverages.
4.	How many first aiders are required?	There are no hard and fast rules regarding exact numbers that will be required. A Member will need to undertake a first aid needs assessment and as part of this assessment will need to take into account all the relevant circumstances of its particular organisation.

Question No.	Question	Response
5.	Are we required to do health and safety risk assessments?	Yes, the Management of Health and Safety at Work Regulations require employers to assess the risks to the health and safety of their employees and other persons (for example pupils, contractors and visitors). You must review risk assessments regularly to ensure they remain relevant and they must be recorded.
6.	Schools must comply with health and safety legislation. Will RPA decline a claim if the Member fails to comply with any of the legislation?	To be compliant with the law in the UK a Member must comply with all relevant legislation however non-compliance does not mean that the RPA will not deal with a resultant claim from a third party or Member employee. However, if the Member is prosecuted for a breach of health and safety legislation the RPA will not provide an indemnity for any resultant fines or penalties.
7.	What are Health and Safety Executive (HSE) Fees for Intervention?	HSE operates a Fee for Intervention (FFI) cost recovery scheme. Under The Health and Safety (Fees) Regulations 2012, those who break health and safety laws are liable for HSE's related costs, including inspection, investigation and taking enforcement action. Duty holders who are compliant with the law, or where a breach is not material, will not be charged FFI for any work that HSE does with them.
8.	Will RPA indemnify a Member for Fees For Intervention (FFI) that the Member may be required to pay HSE?	The RPA will not provide an indemnity for FFI. FFI will only be charged by HSE to a Member as part of the HSE FFI cost recovery scheme if a Member is found to be in contravention of relevant statutory provisions following an investigation by the HSE. As such, FFI is deemed a penalty; indemnification in relation to penalties is excluded under the RPA, as it would be under commercial insurance.
9.	Who needs to be appointed as a Member's Competent Person?	As an employer, a Member must appoint someone competent to help it meet its health and safety duties. A Competent Person is someone with the necessary skills, knowledge and experience to manage health and safety within the school, which will include an understanding of the risks within the school. The appointed Competent Person does not need to be from within the school, they can be from outside the organisation if they have the necessary skill, knowledge and experience.
10.	How is a Health & Safety Risk Assessment undertaken?	To do a risk assessment, the Member will need to understand what, within its business, might cause harm to people and will need to decide whether it is doing enough to prevent that harm.

Question No.	Question	Response
		The Member will need to identify and prioritise putting in place, appropriate and sensible control measures to address the risks that are identified. The Risk Assessment should: • identify what can harm people in the organisation • identify who might be harmed and how • evaluate the risks and set appropriate controls, taking into account the controls already in place The Risk Assessment should be recorded, reviewed and updated periodically. The Member should be able to demonstrate that you have followed your own procedures for mitigating risk. The Member's appointed Competent Person will be able to assist the Member with this legal requirement.
11.	What should be included in a health and safety policy?	Most businesses set out their policy in three sections: • The statement of general policy on health and safety at work sets out an organisation's commitment to managing health and safety effectively, and what it wants to achieve • The responsibility section sets out who within the organisation is responsible for specific actions • The arrangements section contains the detail of what an organisation is going to do in practice to achieve the aims set out in the statement of health and safety policy The Member's appointed Competent Person will be able to assist the Member with this legal requirement.
12.	Please clarify whether employees would be covered to use physical restraint / physical intervention / positive handling of pupils when suitable training has been undertaken?	There are no specific requirements within the RPA in relation to risk management or mitigation including when using physical restraint/physical intervention/positive handling of pupils, however there is a general requirement that a Member maintains a minimum standard of risk management: **Precautions and Reasonable Care** Members, and the Local Authority in the case of Local Authority Maintained Schools, must:

Question No.	Question	Response
		i) Take all reasonable precautions to prevent and minimise injury, damage and loss; and ii) Comply with statutory legislation and guidelines; and iii) Exercise care and due diligence in the selection and vetting of staff, visitors and contractors. For information, this shall include Members: i) undertaking risk assessments as required by legislation; ii) maintaining the Property in a satisfactory state of repair; iii) taking all reasonable precautions for the safety of Property; iv) taking all reasonable precautions to prevent loss, destruction, damage, accident or injury; v) undertaking reasonable checks when employing members of staff; vi) setting and maintaining systems for the protection of Property, Employees, pupils and third parties; vii) compliance with the laws of England and Wales; viii) compliance with United Kingdom Government guidance as appropriate. As stated above, suitable and sufficient risk assessments should be undertaken, recorded and adhered to and to compliance with UK Government guidance. The school would need to follow UK government guidance in the link below. As long as this guidance (or any amended guidance) is adhered to RPA cover will apply including under Section 4, Third Party Public Liability to the extent that the school is legally liable to pay compensation or damages following death or injury to a pupil when using physical restraint/physical intervention/positive handling of pupils. Cover would also apply under Section 3, Employers Liability to the extent that the school is legally liable to pay compensation or damages following death or injury to an employee. Use of reasonable force in schools - GOV.UK (www.gov.uk)
13.	Are we covered under Section 34 of the Children's Wellbeing and Schools Act 2026 more commonly known as Benedict's Law?	As this is new legislation, we will continue to keep the position under review, as we do with all aspects of RPA cover. At present, where a public liability claim is brought against an RPA Member school alleging that a student has died or been injured as a result of the Members negligence and / or a breach of Section 34 of the Children's Wellbeing and Schools Act 2026

Question No.	Question	Response
		more commonly known as Benedict's Law, **subject to** the RPA Member complying with the statutory guidance on supporting pupils at school with medical conditions Supporting pupils with medical conditions at school - GOV.UK (www.gov.uk), RPA cover will apply as follows: 1. The RPA will defend the claim on behalf of the Member school. 1. If the Member is found legally liable for the death or injury, the RPA will indemnify the Member for the compensation or damages it is required to pay. In no circumstances, will the RPA: 1. Indemnify any fines or penalties imposed on the Member or individuals for breaches of legislation, including Section 34 of the Children's Wellbeing and Schools Act 2026 more commonly known as Benedict's Law, existing Health and Safety legislation, or HSE Fee for Intervention (FFI). 2. Cover any costs associated with custodial sentences imposed on individuals found responsible for such breaches. DfE guidance is available on the new legislation at Allergy safety in schools - GOV.UK