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THE MEDICAL PROTECTION SOCIETY LIMITED  
PROFESSIONAL SUPPORT AND EXPERT ADVICE

## Financial stability in challenging times

## Annual Report and Accounts

For the year ended 31 December 2009

THURSDAY



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## About MPS

The Medical Protection Society is the leading provider of comprehensive professional indemnity and expert advice to doctors, dentists and health professionals around the world

We are a mutual, not-for-profit organisation offering more than 265,000 members help with legal and ethical problems that arise from their professional practice. This includes clinical negligence claims, complaints, medical council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal-accident inquiries

Fairness is at the heart of how we conduct our business. We actively protect and promote the interests of members and the wider profession. Equally, we believe that patients who have suffered harm from negligent treatment should receive fair compensation. We promote safer practice by running risk management and education programmes to reduce avoidable harm. MPS is not an insurance company

The benefits of membership are discretionary – this allows us the flexibility to provide help and support even in unusual circumstances

# Chairman's statement

It is unlikely to come as a surprise to practising doctors and dentists that, over the last year, demand for MPS services continued to rise in most countries in which we operate. I believe this partly springs from tensions created by increased professional regulation and accountability, at a time when governments and insurers are demanding more from healthcare on increasingly limited resources.

We have also noticed a worrying recent rise in civil claims against general practitioners in the UK. Although many of these claims are for relatively small sums, associated legal expenditure remains stubbornly high. In addition, costs of defending members against various disciplinary tribunals and regulatory bodies have continued to increase strikingly, by 20–30% per annum over the last ten years. In the UK, the GMC's fitness to practise panels now scrutinise the conduct of more than 300 doctors a year, in increasingly complex issues.

For the doctor or dentist concerned, a claim or disciplinary hearing is a hugely disruptive and distressing event. MPS exists to offer the strongest possible personal and professional support in these situations. The member will usually need to attend several meetings with their legal team at considerable inconvenience both to themselves and their patients. To meet this challenge we have already expanded our existing offices in both London and Leeds but, in order to provide a service that is even more accessible, especially to members in Scotland, we opened an office in Edinburgh in May. We were delighted that Sheila McLean, Professor of Law and Ethics in Medicine at the University of Glasgow, was able to cut the proverbial ribbon at a ceremony that attracted many distinguished members of the devolved Scottish health service.

MPS, as a mutual organisation, takes extreme care to invest members' funds so they may be relied upon when needed, possibly many years in the future. Two striking cases are described in a recent issue of our publication *Casebook* where claims had to be settled arising from incidents in the distant past. In the first, appendicitis in a girl of seven was not treated in a timely fashion, resulting in sterility which did not become evident until 22 years later. In the second, a woman whose slipped femoral epiphyses were not recognised throughout childhood and early adult life subsequently required bilateral hip replacements at the age of just 35. These gaps of more than 20 years between the doctors' errors and subsequent recognition of the resulting harm are overwhelming arguments for the MPS model of occurrence-based indemnity. These doctors had valid membership at the time of their inactions and so did not need to rely upon regularly renewing an insurance policy year after year, never knowing when past mistakes might come back to haunt them in the form of a solicitor's letter of claim.

We all recognise that some doctors and dentists are more conscientious than others. I suspect that most who read this report will not be surprised to learn that a minority of members account for a majority of expenditure on both claims and non-claims. Some members, who have not had occasion to call on MPS services and

so might consider themselves better doctors, or perhaps lucky, resent paying the same subscription as colleagues who make considerable demands on our funds.

Some doctors have suggested we charge subscriptions according to a member's claims and disciplinary history – difficult, when there can be a gap of more than 20 years for this history to be revealed. Our preferred approach, fully in keeping with the mutuality of MPS, is to make every attempt to support the doctor and show ways in which risks inherent in clinical practice may be reduced.

Our experience gives us a strong position from which to offer such support. During 2009 we established a committee to oversee the continuing expansion of our educational and risk management programme, chaired by Dame Janet Husband, recently President of the Royal College of Radiologists. We are fortunate to have the benefit of her skills and experience in this field. As part of this programme we delivered a substantial number of workshops in 2009 to promote safer clinical practice.

Much litigation springs from poor communication, and we place particular emphasis on improving this. Handovers have become a growing problem as shift work is more common in hospitals. The GMC demands "clear communication with healthcare colleagues", yet too often handovers consist of casual, throwaway remarks. Increasing use of telemedicine also brings a raft of new pitfalls.

Members will know that MPS indemnity is subject to the discretion of MPS Council. This often allows us to support a member under circumstances that lie outside the scope of an insurance policy's small print. However, we must exercise discretion in a manner that is fair and equitable to all members, which can sometimes be challenging. We have established an ethical committee, drawn from Council and senior MPS staff, to offer expert oversight of the way these decisions are made – and I believe this committee is making an important contribution.

During the last year, Dr Alan Crouch, a general practitioner in Yorkshire, stepped down as chairman of our main medical committee that advises MPS file handlers on civil claims. He has been succeeded by Miss Susan Sellers, Consultant Gynaecologist and Obstetrician in Bristol. Susan has been Vice-Chairman of the committee since 2003, and we wish her well in her new role.

Two medical members of Council retired in the summer, Professor Sir Ravinder Maini and Dr Mark Dinwoodie, although Mark will be continuing to contribute to our educational programme. We thank them for their valuable contributions over the years. In keeping with our central ethos of "doctors for doctors", we extend a warm welcome to two new medical members of Council, Dr Yasmin Drabu and Dr Mark Davis.

**Nicholas Davies**  
Chairman of the Council

## Chief Executive's report

**Our commitment to providing doctors and dentists with the skills necessary to meet the ever increasing challenges to their professional lives will continue, as well as our commitment to safe practice.**

Last year proved to be another 12 months of great uncertainty on the financial markets, particularly with regard to exchange rate movements, although fortunately stock markets had recovered some ground by the end of the year. I am therefore pleased to report that overall our investments did well, but we saw a significant and unexpected increase in the value of claims paid out and we have increased our reserves for outstanding claims in response to this.

MPS finished 2009 with total assets of around £1.4 billion, a rise of £200m in the year. After providing for outstanding reported claims and other liabilities, the amount available to meet future claims from adverse clinical incidents, which had already occurred by the end of 2009 but had not yet been reported to MPS, increased from £797m to £913m. This was a reasonably good result considering the poor claims experience but was disappointing compared to our expectation at the start of the year.

The worst of the adverse claims experience has been in the UK and South Africa, although we are beginning to see a rise in both the frequency and average size of claims in most countries in which we operate around the world. Of major concern has been a quite startling increase in the value of high claims in the UK, where some settlements have leapt by 40% or more as compared with similar claims settled in the recent past. This is a worrying trend as it will inevitably mean higher subscriptions for all our UK members, a similar worrying trend is also beginning to emerge in South Africa. The value of a claim for catastrophic injury in the UK is now higher than virtually anywhere else in the world including most of the States in the USA. There must be a question mark over whether society can afford such awards and we will continue to call for a public debate on what is fair and appropriate compensation.

An important development on the claims front is the appearance of Lord Justice Jackson's Review of Civil Costs in

England and Wales. It is a wide ranging and even-handed report, which is fair to both claimants and defendants. Amongst many recommendations, he is keen to put claimants back in the position they used to be in before conditional fees agreements were allowed, so that they once again have a financial interest in the way their claim is managed. The most important recommendation is that After the Event insurance cover and success fees should no longer be recoverable for claims conducted under conditional fee arrangements. He also tackles the problem of disproportionate costs, often a feature in small claim settlements and recommends that there should be a new test of proportionality taking into account all the factors of the litigation, not just the fact that the costs were necessarily incurred.

MPS contributed significant amounts of data to Lord Jackson's Review and we made several submissions both in writing and in person during the process. We are pleased with the result, as we believe, if implemented, it will significantly reduce the cost of litigation as a result of lower legal fees, which will be beneficial to most parties, apart from, perhaps, claimant law firms. I know that one person who will be particularly delighted about the Review is my predecessor, Dr John Hickey, who wrote the following in the MPS Annual Report three years ago:

*"Inflated claimant costs are a silent scandal that should be investigated and steps taken to prevent the few who are benefiting at the expense of the many."*

It is not only the UK that has suffered from excessive claimant costs but also other countries in which we operate, with Ireland in particular requiring a similar overhaul of the civil costs regime. There have recently been calls in Ireland for a major judicial review of legal costs and MPS fully supports the need for this.

Meeting with key stakeholders, including government officials, politicians and regulators, is an important part of our role in

protecting the interests of members. Our aim is to try and ensure that any decisions taken regarding new legislation or regulatory changes affecting professional practice are done on an informed basis, which can be quite a challenge. 2009 was a particularly busy year on this front and we were faced with critical issues in Ireland, South Africa and New Zealand, which required considerable effort to ensure favourable outcomes. MPS will always be proactive in this area and our aim is to meet with all interested parties on a regular basis to discuss topical issues. The more helpful we can be, the greater the likelihood that we will be listened to when problems arise.

MPS is always looking at how we can enhance our service. We understand that our members lead busy lives and we try to find ways to make contacting us as easy and hassle free as possible. Amongst several initiatives during 2009 we opened a new office in Edinburgh, which will provide improved access for our members in Scotland, we commenced major IT projects to enable all our members to communicate with us more efficiently over the internet, and we are planning to extend our hours of operation in the UK office for membership queries, which will facilitate access not just for UK members but also members in several other countries and time zones.

Our efforts to increase the focus on our international operations have continued and we remain committed to ensuring that our publications are relevant to members wherever they are based. With regard to this, we welcome feedback from members on our current range of publications and new ideas for articles on topical issues. Our communications department would welcome approaches from anyone who is interested in contributing.

Having successfully introduced in New Zealand in 2006 a confidential counselling service for members, we started a similar counselling service in South Africa last year, which has been very favourably received by our members there. It has become clear that there is a real need for this type of support for members and we will be introducing further counselling services for members in Hong Kong, Singapore and Malaysia in 2010.

Amongst the islands of the West Indies, we have members in more than 15 countries and setting fair and consistent subscription rates over such a wide variety of economies and size of populations is a real challenge. A full actuarial review was carried out last year with the aim of achieving a fairer balance to the subscriptions, and this has resulted in some major changes with several countries and specialties paying more but a majority of members paying less.

It is a fundamental part of MPS's philosophy that subscriptions should be fair and we try as far as possible to achieve this. It does not mean that every member will be happy with their level

of subscription and we are fully conscious that for some high-risk specialties the subscriptions charged can be a substantial part of a doctor's income. We always try to ensure that our subscriptions do not impact on the practice of medicine in a country and where the cost of practising reaches unacceptable levels we will lobby government to try to obtain financial support or a change in the law to help the specialty concerned.

Our focus at MPS on producing high quality education continued in 2009. Last year we provided more than 350 skills-based workshops designed by the Cognitive Institute to whom I have referred in previous reports. The Cognitive Institute, now part of MPS, is one of the world's leading specialist training companies in communication skills for doctors and dentists.

In addition, we have provided more than 200 other workshops and risk assessments and more than 300 lectures worldwide. 2010 will see the number of events increase to more than 1,000 and the introduction of an e-learning system, which has been in development over the last year.

Our commitment to providing doctors and dentists with the skills necessary to meet the ever increasing challenges to their professional lives will continue, as well as our commitment to safe practice.

The outlook for 2010 remains difficult, with the medical and dental professions continuing to face major challenges. I have already mentioned the worrying trend in the value and frequency of claims, but the other issue on which I will continue to speak out is the fact that there has never been a time when our members are under so much scrutiny with potentially career threatening outcomes. My concern is that if doctors and dentists continue to believe that they are under sustained attack and fear the stress of prolonged investigation for one or two mistakes in a career, then many of those who are the most caring and conscientious will decide to leave their profession early or, even worse, decide not to train in the first place.

I strongly believe that there needs to be a recognition and acceptance by the public that mistakes will always occur and that perfect outcomes should not be taken for granted. Mistakes should be openly investigated in a "no blame" environment so that lessons can be learned without fear of retribution. I also call on regulators to only investigate cases where there is a real and justified risk of significant impairment in a practitioner's fitness to practise. Doctors and dentists are ordinary citizens but the standards of behaviour that are increasingly expected, not only in their working environment but also their private lives, make it virtually impossible for them to live up to those standards every moment of the day.

**Tony Mason**  
Chief Executive

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# Finance Director's report

**...It is in members' interests that their indemnity organisation is financially robust, so that they have the assurance that they will receive the assistance they need no matter when that need may arise.**

It is well known that there can sometimes be a very long delay between an adverse incident and the payment of compensation, in extreme cases this can be over 20 years, as was illustrated by case reports in the January 2010 edition of *Casebook* and which are also referred to in the Chairman's statement. Consequently, it is in members' interests that their indemnity organisation is financially robust, so that they have the assurance that they will receive the assistance they need no matter when that need may arise.

## Financial stability

For this reason, MPS has for some years now pursued a financial target, which has been derived in a similar manner to that of a regulated insurance company and is designed to ensure the long-term financial stability and viability of the organisation. Through the use of this target MPS ensures that it has assets sufficient to cover all of its potential claim responsibilities – those reported and those yet to be reported – whilst also maintaining a margin of assets left over to provide a "cushion" against the impact of unexpected adverse events.

In the last two years, MPS has experienced examples of just such unexpected adverse events. Last year, I reported that MPS's financial position had been challenged by the extreme falls in global investment markets. In 2009, MPS's financial position was again challenged, this time by the unexpected growth in its claims responsibilities (the details of which are provided below).

I am pleased to report that despite these adverse events and taking the last two years together, MPS has managed to increase the value of funds available to meet future liabilities and charges by £166m over that period.

## Financial overview

The value of funds available to meet future liabilities and charges increased during the year by £116.3m, such that the value at the year end was £913.1m. This compares to an increase in 2008 of £49.7m and a closing balance at the end of 2008 of £796.8m.

Under the claims-incurred indemnity that MPS provides, subject to the exercising of discretion, MPS will assume responsibility for claims that are yet to be reported from incidents that took place before 31 December 2009 – so-called "unreported claims". As MPS has already collected a subscription for the period to which these relate we consider it appropriate to have sufficient funds to meet the expected cost of these potential claims if and when discretion is exercised to assist. This is what the £913.1m of funds is for and, as stated in Note 21 to these accounts, this sum is more than sufficient for that purpose.

Whilst the fund of £913.1m remains more than sufficient to meet the estimated cost of these potential claims, the margin by which this sum exceeds the estimated value of these potential claims has declined in the year. This is because the estimated value of the potential claims has increased in the year by more than the increase in assets to meet these claims – which is contrary to expectations. The increase in assets was more than expected, as a result of favourable investment performance and this just points to the exceptional and unexpected development in potential claims, which mirrors the development of reported claims. More detail on the development of reported claims is provided below.

## Financial performance

### Subscription and other income

Members' subscription and other income increased by £23.3m, 9.2% (2008: £20.2m, 8.7%). As in past years, this is a combination of both increases in subscription rates and an increase in member numbers. Although the increases in subscription and member numbers varies between countries and even between different groups of membership, in general MPS's subscription rates increased between 0% and 6% in 2009 and the number of members who pay a subscription increased by a little over 4%.

MPS continues to set subscription rates with the benefit of advice from independent consulting actuaries, which it

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**FINANCE DIRECTOR'S REPORT CONTINUED**

considers are necessary to meet the future costs that will arise from adverse incidents in the year to which the subscriptions relate. In the long run it is not in MPS's, members', or their patients' interest to set rates that are insufficient to meet these future costs.

**Claims costs and associated legal costs**

These are the costs incurred in defending and settling claims of negligence in the year, plus the change in the value of the expected future cost of claims of negligence between the start of the year and the end of the year. Such costs were £190.9m in 2009 (2008 £160.5m) an increase of £30.4m or 18.9% in the year (2008 £60.0m, 59.7%).

On the face of it, the figures above show a significant increase in claims costs in 2008 and a more modest increase in 2009. However, this does not show the true underlying picture as the figures are distorted, partly by the impact of exchange rate movements over the last two years on MPS's non-sterling claims values and partly by the need to pay a retrospective tax charge in 2008, which is included in the £60.0m identified above. (An explanation of the impact of exchange rate movements is provided below.)

If these distortions are stripped out of the figures, then the increase in claims costs for 2008 was about £17m and for 2009 was about £80m. An increase in claims costs from year to year is to be expected as MPS has been successful in growing its membership base year on year and inflation will also contribute to an increase in costs. However, the 2009 increase of £80m is quite exceptional. There are a number of different reasons for the increase, but the primary one has been the growth in the expected future value of UK medical claims.

When a claim is first reported, it is usually accompanied by a brief description of the facts and an experienced claims handler will estimate the likely cost of settling the claim, based on the facts available. As time goes on, more information about the potential loss will become clear and the claims handler will continually update their expectation of the cost of settling the claim. The information that leads to a change (not always an increase) in the expected settlement value may be specific to the case, or may be related to an issue general to all similar cases. In 2009, analysis suggests that both specific and general issues were responsible for the large rise in claims costs.

During 2009, MPS increased the expected future costs of settlement of all of its larger UK claims (which are almost exclusively medical) to reflect trends seen in cases being settled in the year. One of the drivers for this has been the need to increase the expected settlement to reflect the increasing cost of future care for those individuals who, as a result of medical negligence, need help. It is now not unusual to see claims where the current annual cost of future care is pleaded at about

£200,000 for those individuals with greatest need, although to date MPS has been successful in settling at levels below this. This, in conjunction with normal or near normal life expectancy for such individuals, means that lump sum settlements in excess of £5m are no longer rare.

**Insurance recoveries**

When setting subscriptions, MPS does so based on an expectation of the future number and cost of claims. If actual claims experience is worse than expected, then MPS will have failed to collect sufficient income to cover the cost. One reason for this may be due to an unexpected level of catastrophic claims. To help mitigate this, MPS passes the risk that claims may be settled above a certain level to a third party, through insurance. MPS has mitigated the cost of unexpected catastrophic claims experience in this way for many years.

The increase in anticipated recoveries of £19.7m is more than 19 times the anticipated increase in recoveries for 2008 (£1.0m) and nearly 12 times the anticipated increase in recoveries for 2007 (£1.7m) and is again a reflection of the deterioration in claims seen in 2009.

**Advisory and associated legal costs**

These are the costs associated with assisting members with all matters other than claims of negligence and the change in the year of the outstanding value of all such claims reported where discretion has been exercised. The costs for 2009 were £46.8m (2008 £42.9m) an increase of £3.9m, 9.1% (2008 increase of £11.4m, 36.1%).

As with claims costs above, the reported figures are distorted by exchange rate movements and the impact of retrospective tax in 2008. If these are stripped out, then the 2009 increase was £7m, 18% (2008 increase of £6m, 19%).

Some of the increase is due to the ever-growing demand for these services, the growing complexity of cases put before regulators and the growth in member numbers. However, some of the increase (£1.8m) was due to a change in the way that the outstanding reserve for reported matters is calculated, to bring it into line with the reserving for other claims. The reserve for outstanding reported matters represents MPS's best estimate of the external legal costs which will have to be incurred to manage these matters to conclusion. But there will also be an internal cost for MPS staff to work on these claims up to the point of conclusion, and so it is prudent that this future cost should also be provided for. This additional provision has been included this year for the first time.

**Education, publications and external relations**

These are the costs of developing and delivering education and risk management services to members as well as providing a variety of publications, with the aim of reducing risk, and liaising



with regulators, legislators and professional representative bodies around the world on behalf of members and the wider professions, on matters relevant to MPS and its members

MPS is now into its third year of developing and delivering educational and risk management services for members. We continue to believe strongly that it is appropriate for MPS to provide these services and indeed to use subscription income to fund a certain level of these services.

Consequently, the costs devoted to this area continue to grow, up by £2.3m, 74% in 2009, (2008 £1.0m, 49%). This increase in costs is partly an investment in staff and training to support and deliver educational and risk management services, and partly the actual costs of delivering services. In 2009, MPS delivered 550 educational events to members around the world and it is planned to increase this to more than 1,000 in 2010.

#### Administration expenses

These are the costs of running the business, other than those costs related to the management of claims or the provision of education and external relations, which are dealt with elsewhere. Thus this leaves common services such as finance, IT, human resources and office accommodation, as well as marketing and membership services.

The costs have increased in 2009 by £0.2m, 1.2% (2008 £4.0m, 35.2%). The large increase in 2008 was partly related to costs for the first year of increased office accommodation in Leeds and London. Similarly, but to a lesser extent, some of the 2009 increase is due to the opening of a new office in Edinburgh in early 2009. As can be seen from Note 7 to the accounts, MPS increased staff numbers by 49 in the year. However, the relatively modest increase in administration expenses indicates that most of this resource was directed to claims handling, which is included in the claims cost line, medico and dentolegal services, which is included in the advisory costs line and educational, publications and external relations, as discussed above.

#### Loss on exchange movements

MPS experiences a profit or loss on exchange movements in two ways: one is through trading and the other is through the matching of assets and liabilities.

#### Trading

As part of its business, MPS will receive income and pay costs in non-sterling currencies. Whenever it does this there may be a period of time between entering the income or costs due in the books of account and then entering the actual receipt or payment. If the exchange rate moves during this time, whilst there will be no difference in local currency between the initial entry and subsequent entry, there may be a difference in sterling terms and this will result in a profit or loss on exchange. This impact is relatively minor compared to the impact from matching assets and liabilities.

#### Matching

MPS has claims liabilities in many different countries. It is important to ensure that the assets held to meet the future costs of these claims are held in the same currency, so that exchange rate movements do not alter MPS's ability to fund these claim liabilities. Although the exchange element of the assets and liabilities are closely matched, accounting disclosure requirements dictate that in these published accounts, the exchange movements related to the claim liabilities are included within the claims cost line and the exchange movements related to assets are included in the line "loss/(profit) on exchange movements", which seems to suggest that MPS is exposed to large levels of profit or loss due to exchange rate movements. This is not actually so.

#### Investments

MPS holds investments to meet the future cost of claims for which it already has a liability, reported claims, and those potential claims for which it will have a liability, subject to the exercising of discretion, "unreported claims". The primary purpose of these investments is to match the claim and potential claim liabilities, firstly by currency and then by maturity. Consequently, much of MPS's portfolio is held in government bonds, particularly UK index-linked bonds. A much smaller proportion is held in return seeking assets such as equities and within this section of the portfolio there is considerable diversity to reduce the risk associated with such assets.

MPS's investments increased in the year by £164.6m, 14.5% (2008 £117.0m, 11.5%), to end the year at £1,297m. This increase is a combination of the addition of the excess of annual subscription income over costs incurred in the year, which in 2009 added £55m (2008 £93m) and the investment return on existing funds, which itself is a combination of investment income before tax of £23m (2008 £27m) and a capital increase net of management fees of £87m (2008 a decrease of £3m). This represents an investment return after tax and management fees of a little over 6% (2008 1%).

During the year equity performance was very good, with UK equities returning nearly 30% and international equities performing nearly as well, although exchange rate movements meant that the return of these in sterling terms was slightly lower than achieved in local currency terms. However, in absolute terms these performances served only to return markets to about the levels seen at the start of 2008. By contrast, bond markets did not fare as well, with a positive performance for UK index-linked stocks but a negative performance in sterling terms for European and US bonds.

#### Conclusion

In 2008, MPS experienced significant volatility in investment markets and then in 2009 experienced large increases in its claim liabilities. Despite these two unexpected adverse events, MPS's financial position is not significantly different at the end of 2009 than it was at the start of 2008.

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**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**FINANCE DIRECTOR'S REPORT CONTINUED**

A strong financial position is vital for members' peace of mind because it is quite common for members to seek assistance in relation to matters arising from an adverse incident which occurred many years previously. Members need to be assured that, if this happens to them, their defence organisation will still be there to provide them with that much-needed assistance.

Such financial stability comes from the prudent setting of subscriptions to meet the estimated cost of future potential claims as well as careful financial management and the mitigation of related risks. The last two years shows that MPS has been very successful in each of these areas.

**Simon Kayll**  
Finance Director

# MPS Council

## President

Sir Peter Morris AC FRS FRCS FMedSci<sup>3</sup>

## Vice-President

Professor John Bonnar MA MD FRCPI FRCOG

## Chairman of the Council

Nicholas Davies MA DM(Oxon) MRCP FRCA

## Chief Executive

Tony Mason BSocSc FIA

## Members of the Council

Frank Attwood BSc(Econ) FCA FRSA ACIS MAE<sup>1,2,4,5</sup>

The Lord Bradley PC BA(Hons) MPhil<sup>1</sup>

Ian Croxford QC LLB<sup>1</sup>

Nicholas Davies MA DM(Oxon) MRCP FRCA *Chairman*<sup>2,3,4,5,6</sup>

Mark Davis MB ChB MRCPG DRCOG DocMed FRCPEd<sup>7</sup> (Appointed 10 June 2009)

Mark Dinwoodie MA(Cantab) MB BS DGM DRCOG DCH DFRPH FRCGP T(GP) MMed (Dundee)<sup>1,3</sup> (Retired 10 June 2009)

Yasmin Drabu MB ChB DCH FRCPath FRCP (Appointed 10 June 2009)

Mary Favier MB BCH MRCP MRCPG<sup>2,3</sup>

Kathryn Harley BDS MSc FDSRCS(Edn) FDSRCS(Eng) FDSRCP(SGlas) FFGDP(UK) *(ex officio)*<sup>2,6,7</sup>

Taj Hassan MD FCEM MRCP DA FRCSEd<sup>4,7</sup>

Leela Kapila OBE MB BS FRCS FRCPC(Hon)<sup>1,3</sup>

Simon Kayll BA(Hons) FCA MBA<sup>4,5</sup>

Kevin Lewis BDS FDSRCS(Eng) FFGDP(UK) LDSRCS(Eng)

Professor Sir Ravinder Maini FRS BA MB BCh FRCP FRCPE Hon DSc (Glasgow) FMedSci<sup>1,3</sup> (Retired 10 June 2009)

Tony Mason BSocSc FIA *Chief Executive (ex officio)*<sup>3,4,5,6</sup>

The Lady Vallance JP MA MSc PhD<sup>1,3</sup>

Richard Youell JP MA<sup>2,4</sup>

1 Members of the Audit Committee

2 Members of the Remuneration Committee

3 Members of the Nominations Committee

4 Members of the Board of MPI (London) Limited

5 Members of the Board of MPS Risk Solutions Limited

6 Members of the Board of Dental Protection Limited

7 Members of the Educational Advisory Committee

## Members of the Council and Committees

**MPS indemnity is subject to the discretion of MPS Council. This often allows us to support a member under circumstances that lie outside the scope of an insurance policy's small print.**

### **Frank Attwood**

Frank Attwood was elected to the Council as a non-executive director of MPS in June 2004. He is a Fellow of the Institute of Chartered Accountants in England and Wales and was formerly a partner in RSM Robson Rhodes LLP. He was, until retiring on 31 December 2009, Deputy Chair of the International Ethics Standards Board of the International Federation of Accountants. His professional experience covers audits of insurance entities, charities and other regulated companies.

### **Keith Bradley**

Keith Bradley joined the Council as a non-executive director of MPS in July 2007 and was elected by the membership at the Annual General Meeting in June 2008. He is a member of the House of Lords, is a non-executive director of the Christie Hospital NHS Foundation Trust, Chair of Manchester Salford and Trafford LIFT Company and is Associate Vice-President of the University of Manchester. He was formerly member of Parliament for Manchester Withington from 1987–2005, served as a Government Minister and a member of the Health Select Committee. He is a member of the Privy Council.

### **Ian Croxford**

Ian Croxford joined the Council as a non-executive director of MPS in November 2007 and was elected by the membership at the Annual General Meeting in June 2008. He is a barrister, being called to the Bar in 1976 (Gray's Inn), was appointed a QC in 1993, became a Bencher at Gray's Inn in 2001 and was appointed as a Deputy High Court Judge (Chancery Division) in 2007. Ian's professional practice is mainly substantial commercial and professional negligence (non-medical) litigation. He has, since 1990, served as a Governor of Westcliff High School for Boys and became Chairman of Governors in 1995.

### **Nicholas Davies**

Nick Davies was elected to the Council as a non-executive director of MPS in May 2001 and was appointed Chairman of Council in 2003. He has been a member of the Claims Advisory Committee since 1996. He is a consultant anaesthetist at the Southampton University Hospitals NHS Trust and was the Clinical Services Director for Anaesthesia, Theatres and Intensive Care from 1994–1997, and 2001–2003. He was also an examiner for FRCA, Royal College of Anaesthetists from 1991–2003.

### **Mark Davis**

Mark Davis was elected to the Council as a non-executive director of MPS in June 2009. He is in General Practice in Leeds where he has been a principal since 1984. He acts as an Occupational Medical Adviser to a number of occupational health companies and since 2000 has acted as an independent expert witness. Since 2007 he has been a board member of a Practice Based Commissioning consortium and from 2002–2006 was a member of the Professional Executive Committee of the East Leeds Primary Care Trust. He has a special interest in cardiovascular medicine and has served, or does serve, on a number of Department of Health, Primary Care and NIHC committees and working groups related to cardiovascular medicine.

### **Yasmin Drabu**

Yasmin Drabu was elected to the Council as a non-executive director of MPS in June 2009. Since February 2010 she has worked at the Department of Health as Senior Medical Officer in the Blood Policy – Infectious Diseases Division. Previous appointments include: from 2006–2010, the Medical Director and Director of Infection Prevention and Control at the Barking, Havering and Redbridge NHS Trust, from 2000–2006, Medical Director at North Middlesex University Hospital NHS Trust and from 1982–2006, consultant microbiologist, from 1986–1993 head of department, pathology, from 1993–1995 clinical director, diagnostic services, and from 1995–1997 divisional director.

### **Mary Favier**

Mary Favier was elected to the Council as a non-executive director of MPS in June 2005. She works as a GP principal and partner in a practice in Cork. She is Chair of Education for the Irish College of General Practitioners and a member of its executive. She is on the editorial board of Forum, the ICGP general practice magazine, and a member of the editorial board of a health information consumer website.

### **Kathryn Harley**

Kathy Harley was appointed to the Council in July 2006 as an ex officio non-executive director of MPS following her appointment as Chair of Dental Protection Ltd. She has been a member of the Dental Protection Board and Advisory

Committee for Dental Claims since 2000. Kathy is a Consultant and Honorary Clinical Senior Lecturer in Paediatric Dentistry at the Edinburgh Dental Institute where she is Clinical Lead for Paediatric Dentistry. She is a board member and currently Chair of the Postgraduate Education Committee of the Faculty of Dental Surgery, The Royal College of Surgeons of England.

#### **Taj Hassan**

Taj Hassan was elected to the Council as a non-executive director of MPS in June 2006. He has been a member of the MPS Claims Advisory Committee since 2004 and is a consultant in Emergency Medicine at Leeds General Infirmary, Leeds Teaching Hospitals NHS Trust. He is presently a council member of the College of Emergency Medicine (CEM) as Regional Chair for Yorkshire & Humber. He is also the national Director for eLearning for the College, an examiner for Fellowship of the CEM, and a member of the College's Safety Committee.

#### **Leela Kapila**

Leela Kapila was elected to the Council as a non-executive director in June 2003. Until 2002 she was a consultant paediatric surgeon at the University and City Hospitals, Nottingham. She was visiting professor at a number of international hospitals and a council member of the Royal College of Surgeons from 1992–2004. She was Chairman of the Children's Surgical Forum at the Royal College of Surgeons and Senior Vice-President of the Royal College of Surgeons from 2003–2004. Since 2004 she has been a Trustee of Rainbows Hospice for Children and Young People, Loughborough.

#### **Simom Kayll**

Simon Kayll was elected to the Council as an executive director in June 2003. He is a Fellow of the Institute of Chartered Accountants in England and Wales. He joined MPS in February 1994 as Chief Accountant and was successively appointed as Financial Controller and finally Finance Director in January 1999. He was also appointed Company Secretary for MPS and most of its subsidiary companies in March 2000. His current responsibilities include finance, investment management, reinsurance, internal audit, marketing, membership and oversight of MPS Risk Solutions Limited.

#### **Kevin Lewis**

Kevin Lewis was elected to the Council as an executive director in June 2003. He is formerly a general dental practitioner and was a member of the original Board of Dental Protection Limited from 1989–1992, before being appointed as a dentolegal adviser with Dental Protection in 1992. He was subsequently appointed Dental Director of MPS in 1998. His responsibilities include the delivery of all aspects of dentolegal services to members as well as marketing Dental Protection. He was an Associate Editor of *Dental Practice* (1981–2006), and since 2006 has been the Consultant Editor of *Dentistry*. He was a member of GDC steering group on Recertification and former Vice President of the British Association for Dental Therapists

and Council member of the British Society for Restorative Dentistry.

#### **Tony Mason**

Tony Mason joined the Council as Chief Executive of MPS in October 2007. He is a Fellow of the Institute of Actuaries. Before joining MPS, he was a partner at Lane Clark & Peacock LLP, a firm of consulting actuaries. He was appointed a partner in 1985, was appointed Managing Partner in 1997 and Chairman in 2006. He specialised in all matters concerning professional indemnity cover arising from clinical negligence, including the NHS in England and Scotland, MPS and several Australian organisations. Prior to his appointment as Chief Executive, he was an actuarial adviser to MPS for more than 20 years.

#### **Elizabeth Vallance**

Elizabeth Vallance joined the Council as a non-executive director of MPS in February 2005 and was elected by the membership at the Annual General Meeting in June 2005. She sits on the board of Charter European Trust plc and has been an independent director of HMV Group, Norwich Union plc and Aviva plc. She is a Fellow of Queen Mary and of the Institute of Education, both at the University of London. She is Chairman of I CAN, the children's communication charity and was Chairman of St George's Healthcare NHS Trust and of the Advisory Committee on Clinical Excellence Awards. She is a magistrate on the inner London bench, was High Sheriff of Greater London (2008–2009), and is on the Committee on Standards in Public Life.

#### **Richard Youell**

Richard Youell was elected to the Council as a non-executive director of MPS in June 2003. He is a commercial arbitrator specialising in insurance disputes and spent most of his working life as a Lloyd's underwriter, from which he is now retired. He is also a non-executive director of Britannia Steam Ship Insurance Association Limited, Tindall Riley (Britannia) Limited and Liberty Syndicate Management Ltd.

*MPS also has a President, Sir Peter Morris. This position is not a director of the board under the terms of the Companies Act, but the President is elected by the membership and is entitled to, and does, attend Council meetings, participating fully in the discussions.*

#### **Peter Morris**

Peter Morris was elected President in June 2007. He is Nuffield Professor of Surgery Emeritus and former Chairman of the Department of Surgery and Director of the Transplant Centre, University of Oxford. He was, from 2001–2004, President of the Royal College of Surgeons of England. He is also Director of the Centre for Evidence in Transplantation at the Royal College of Surgeons and the University of London and Honorary Professor, Fellow of the Royal Society and the Academy of Medical Sciences, and Foreign Member of both the Institute of Medicine of the National Academy of Sciences and the American Philosophical Society.

# Advisers and Senior Staff

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## Claims Advisory Committee

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### *Vice-Chairman*

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### *Secretary*

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Shelley McNicol BA(Hons)

*Head of Membership*

Carol Sherlock BSc(Hons)



# Report of the Council

The Council, which for the purposes of the Companies Act 2006 is the Board of Directors, presents its annual report for the year ended 31 December 2009

## Principal activity and business review

### Principal activity

MPS is a mutual society, the function of which is to protect, support and safeguard the character and interests of medical and dental practitioners and other healthcare professionals. It is a non-profit-making company limited by guarantee and all income and property must be applied solely towards its objects as defined by MPS's Memorandum of Association.

One of MPS's objects is to grant indemnity to members in respect of claims and demands arising from their professional practice, which may result in the payment of costs and damages. The Articles of Association set down in paragraph 40 state that 'the grant of an indemnity shall be entirely in the discretion of the Council who shall have the power to impose such terms and conditions on the grant of any indemnity as it thinks fit and may in its absolute discretion limit or restrict such indemnity or decline altogether to grant the same'.

In addition to the principal activity of the holding company, the group has two principal trading subsidiaries, MPS Risk Solutions Limited, and Cognitive Consulting Group Pty Limited. MPS Risk Solutions Limited is registered in England and is a general insurance company, regulated by the Financial Services Authority, which provides professional indemnity, malpractice, product and public liability cover to corporate healthcare providers. Cognitive Consulting Group Pty Limited is registered in Australia and provides education and training in communication skills and risk management to medical practitioners. There is a further major subsidiary, MPI (London) Limited (MPI), which is registered in England and holds the invested assets on behalf of MPS. MPI has a separate board which is responsible for implementing the investment strategy approved by MPS Council. Funds are invested with third party fund managers and MPI does not undertake any direct investment activity. The MPI board is also responsible for overseeing the investment performance of the third party managers.

### Business purpose

MPS exists to serve its members. MPS aims to ensure that it remains a strong viable entity to meet its current and future commitments to members and that it continues to provide much-needed services to members for years to come.

In providing services to members, subject to discretion and the scope of the benefits of membership, MPS will meet the costs

of assisting members provided that the request stems from an incident that occurred at a time when the member was paying an appropriate subscription.

This means that if a member seeks advice or an indemnity relating to an incident from a particular year, providing the member was paying an appropriate subscription during the year of the incident and assistance is granted, then MPS will pay all reasonable costs related to that incident. These costs may include representation at a regulatory council, assistance with disciplinary proceedings and full indemnity for damages and costs in cases of negligence. Payment will be made even though it may be years after the incident before costs are incurred and the issues are resolved. Applying for the benefits of membership years after the adverse incident, subject only to having paid the appropriate subscription for the period of the adverse incident, is known as claims-incurred cover.

In addition, MPS has developed and continues to develop a range of non-clinical educational courses and risk management assessments for members worldwide to help reduce risk and so improve patient care. The educational courses will take the form of workshops, lectures and web-based learning and will focus on communication and interpersonal skills, practice systems and processes, professionalism and ethics.

### Principal risks and risk management

All businesses face risks of one kind or another and prudent management of the business requires identification, quantification, management and mitigation of these risks. MPS is no exception. The identification and mitigation of the key risks are detailed below and the process of the management of risk is detailed in the section on Internal Controls below.

The principal risks facing MPS and their mitigation are

#### ■ Reserving risk

MPS provides an indemnity to members for the costs and damages associated with claims of negligence and the costs associated with other claims. For MPS to provide this support on a claims-incurred basis means that at any time there are, as a result of past adverse incidents, claims that have already been reported and potential claims that have not yet been reported (unreported claims). Subject to discretion, MPS will be responsible for all of these claims.

For MPS to be responsible for paying these claims, it needs to be able to assess the value of these claims and ensure that it has sufficient assets to meet the expected total costs.

The value of these claims is estimated by MPS and there is a risk that the eventual payments exceed the sums

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**REPORT OF THE COUNCIL CONTINUED**

estimated as the cost of the claims. The uncertainty around estimating the value of all claims is greater for unreported claims, than for those that have been reported. For unreported claims, the uncertainties include the number and severity of claims arising, how long it is likely to take from the date of the adverse incident to the making of a claim and how many may be large claims. The uncertainties for the reported claims are a little narrower, but still considerable.

In addition to the variation inherent in the claims, there are also external factors, mainly changes in legislation which can have a profound impact on claim estimates. MPS has seen a number of changes in legislation in the UK over the last ten years, nearly all of which resulted in an increase in the cost of claims. This includes the introduction of periodicals and the reduction in discount rates. The discount rate is the rate used to "translate" future cash flows, to be paid under the settlement agreement, into a lump sum value in current money terms. The lower the discount rate, the higher the value of the lump sum. The discount rate in England and Wales is set by the Lord Chancellor and is currently 2.5%. In other countries, the rate at which future cash flows are discounted to a current value lump sum will be part of the settlement negotiations.

The likelihood of variation in the total outcome from the expected estimate diminishes with the increasing size of the portfolio. In addition, the geographical diversity of the portfolio also helps to reduce the overall variation of expected returns. A larger more diversified portfolio is less likely to be affected across the board by a change in any subset of the portfolio.

*Mitigation*

Maintaining a large geographically diverse portfolio of risk is a key step in helping to reduce the variation of outcome around the expected mean. Further steps are around ensuring the quality of the expected outcome in the first place and this relies heavily on the accuracy of data used and the quality of analysis in determining the expected outcome. MPS uses the skill of its internal staff to determine accurate estimates for individual claims. It also ensures that levels of skill are maintained by supporting on-going training initiatives. It also has many checks and balances in its internal systems to review and monitor these estimates to achieve a high degree of consistency. MPS uses the experience of its consulting actuary, Lane Clark & Peacock LLP, to use the internal individual claim estimates and membership data to arrive at a statistical reserve for the likely cost of all claims.

■ **Underwriting risk**

MPS charges a subscription based on the expected claims of those members paying the subscription. There is a risk that the resulting claims from those members will turn out to exceed the expectations contained within the subscriptions and thus MPS will not have collected sufficient subscription income.

*Mitigation*

Again, the skill of staff and advisers is important as are the quality of internal systems. In addition, MPS carefully reviews all applications and makes an assessment on those risks that it is willing to accept. MPS also runs an internal programme to identify individual members who appear to represent a higher than normal risk and tries to work with them to reduce their risk. MPS also purchases insurance to cover catastrophic high claims.

■ **Market risk**

Subscriptions collected in any one year are invested until they are needed to pay the costs arising from the year in which the subscriptions were received. The greater the return MPS can achieve from investments, the less it would theoretically need to charge in subscriptions. However, the greater the investment return that MPS is trying to achieve from its invested assets, the greater will be the fluctuations in the value of those assets and thus, the greater will be the risk that MPS will see a fall in the value of its assets. Such volatility in the value of MPS's assets is, when asset values fall, damaging to the strength of the balance sheet and significant volatility in investment returns makes it more difficult to plan for the longer term.

*Mitigation*

MPS has adopted a prudent investment strategy that carefully identifies the levels of risk and return acceptable in its portfolio of assets. External professional advice is regularly sought and investment performance is subject to detailed review in conjunction with advisers. Wherever practical, risks arising from currency fluctuation and investment liquidity are minimised.

The risk of asset value volatility is addressed in a number of ways. Firstly the majority of assets are held in bonds and short-term money market funds, which have a relatively low level of volatility, secondly there is considerable diversity of those assets held primarily to achieve an investment return. The equity element of these assets is held in four different portfolios, each investing in different geographic areas and equities are augmented by other return seeking assets which reduce volatility, because returns from these assets are less than perfectly correlated with the returns from equities.

■ **Currency risk**

MPS holds assets to meet claims liabilities. The claims liabilities are in a number of different currencies. If the assets are not held in the same currency as the liabilities, then there is a risk that movements in exchange rates will alter the relative value of assets to liabilities. Sometimes this might be beneficial, sometimes not. This is a risk that is outside the scope of MPS's business and skill, and should be removed as much as is possible.

*Mitigation*

MPS ensures that all major non-sterling claim liabilities are fully matched with assets to the same value in the same currency. This is fully complied with for euro and Rand claim liabilities. For currencies where the liabilities are smaller, it is not practical to operate a local currency designated investment portfolio, so MPS uses US dollar denominated assets to act as a proxy match for such liabilities. Many of these currencies are closely linked to the US dollar anyway.

■ **Liquidity risk**

Liquidity risk is the risk that there will be insufficient liquid assets available to meet payments when they fall due. This could either result in an inability to make the payment or the need to terminate an illiquid investment at an inopportune time, which could be costly.

*Mitigation*

In managing liquidity risk, MPS needs to balance the ability to gain an investment return on its assets and the ability to have sufficient funds to pay liabilities as they fall due. MPS operates a sophisticated system through major clearing banks to ensure that funds are available on a daily basis when required, but otherwise are invested in pooled money market funds. In addition to this, the invested assets include a short-term money market portfolio with an average weighted maturity of a maximum of 12 months, which provides additional liquidity if needed.

■ **Credit risk**

Credit risk is the risk that someone who owes money to MPS will fail to pay. MPS has little risk from a failure to pay subscriptions by members, because if payments are not made, members have no right to apply for assistance. MPS's main credit risk arises from either a failure of its insurers or from a failure of some of the counterparties involved in derivative financial instruments as part of MPS's investment portfolio.

Specific comment on this risk in relation to derivative financial instruments is provided on pages 22–23.

*Mitigation*

MPS has a stated policy on the acceptable risk profile for its insurers. This policy states the need to spread the risk across a number of insurers and dictates the acceptable financial security rating for insurers. MPS does not review the credit risk of counterparties in derivative financial instruments, but instead agrees parameters with its investment managers as to what security rating is acceptable for such counterparties.

■ **Interest rate/inflation risk**

MPS holds about 70% of its invested assets in bonds and bond prices move inversely to changes in interest rates, thus an increase in interest rates will cause a fall in the price of bonds. The impact on MPS's liabilities is more complicated.

The main influence on the cost of large claims (in the UK) is that element to reflect compensation for future costs or losses, these are mainly loss of earnings and cost of future care. An estimate of the lump sum required to provide for these future costs is determined by reference to a discount factor. The discount factors might be expected to change with changing interest rate expectations, but in the UK it is in fact fixed, by the Lord Chancellor. However, with the introduction in 2005 of periodical payments as an alternative to lump sum or structured settlements, compensation can be provided as a regular monthly payment for the life of the claimant, and these payments are to be indexed according to the retail price index. Since the determination of the Appeal in the *Thompsonstone* case, it is increasingly likely that for settlements subject to periodicals, the cost of future care will be subject to indexation by a wage measure and not the retail price index.

Specific comment on this risk in relation to derivative financial instruments is provided on pages 22–23.

*Mitigation*

Interest rate exposure for bond assets is mitigated firstly by having a broad range of bond holdings, with different sensitivities to interest rate movements and secondly by holding a predominance of index-linked bonds, so that interest rate rises due to increasing inflation are allowed for in the rebasing of the capital value and coupon amount and additional mitigation is provided by the ability to reduce the tax charge as a result of indexation. MPS's response to the risk inherent in periodicals is firstly to ensure that it has an appropriate investment make-up to closely match the liabilities and secondly to ensure that it has sufficient assets to allow a margin in case of unexpected changes in interest and inflation rates.

■ **Operational risk**

Any organisation will be exposed to operational risk, that is to say the risk that a failure in its operations may incur an additional cost. Examples for MPS might include costs associated with a major failure of IT systems, fraud, fire in one of the offices or theft of its assets.

*Mitigation*

MPS has done much to ensure that it has IT back-up systems and contingency plans in the event of failures or disasters, such that there will be minimal disruption to its business. It also spends time reviewing and testing its internal business systems, to ensure that they are sufficiently robust to ensure accuracy of data on which business decisions are based, and to prevent fraud and theft.

**Financial targets**

Despite the risk mitigation identified above, it is impossible to eliminate risk. Consequently, MPS needs to ensure that it has the financial resources to cope with the remaining unmitigated

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**REPORT OF THE COUNCIL CONTINUED**

risk so that it can provide members with the assurance they need that MPS will be in a position to respond to their requests for assistance no matter when these are made

To this end, MPS has set financial targets that will ensure that its assets exceed the estimated value of both its reported claims and unreported potential claims, to protect against the risk that claims may, for many reasons, when eventually settled, cost more than anticipated, this is known as reserving risk. The financial targets have been set such that even if these values were, within certain parameters, to be higher than expected, or, again within certain parameters, the value of invested assets was to be lower than expected, which is known as market risk, then MPS would still have sufficient funds to meet all of its potential claims

More detail is provided on the financial targets in the Finance Director's report on pages 5–8

**Financial performance for the year**

Subscription income has increased in the year, administrative costs were close to expectation and investment performance has been positive. However the development of reported claims, particularly for UK and South Africa has been considerably worse than anticipated

More detail of the financial performance for the year is provided within the Finance Director's report on pages 5–8

**Key markets**

MPS operates in a number of different international markets. This international perspective allows many members to practise around the world and still enjoy the benefits of MPS membership. It also allows MPS to use its wide and diverse experience for the benefit of all its members

MPS's principal markets are

- Hong Kong
- Ireland
- Malaysia
- New Zealand
- Singapore
- South Africa
- United Kingdom
- West Indies and Bermuda

In addition, MPS may provide the benefits of membership in many other countries and if members intend to work abroad, they should contact their membership administrator to see if continued membership of MPS is possible

MPS has a very strong position in all of the above key markets

**Member numbers**

The business aim is to grow membership in a controlled manner without increasing the overall risk exposure of the organisation

The 2009 increase in total members, including those who don't pay a subscription was 0.8% (2008 3.5%)

With reference to those members who have paid a subscription to MPS in 2009 and so contributed to the 9.2% increase in subscription and other income for 2009, numbers increased in the year by 4.2% compared to 6.1% in the previous year

In addition to the growth in member numbers, internal measurements also show that the risk profile of the membership for 2009 compared to 2008 improved in all but one area, and the one area that did not improve deteriorated by only 0.1%

**Staff and the provision of services**

Staff are a vital ingredient in providing the service to members. MPS does much to ensure effective recruitment of staff, appropriate training once recruited and the provision of appropriate management, reward and working conditions to help ensure retention of a skilled resource

MPS continues to invest considerable time to help senior staff with managing performance, to ensure consistency of management across the organisation and to ensure that managers feel supported in taking the decisions necessary for the business. In addition, much has been done to improve internal communication, so that staff are more aware of their contribution to the success of MPS and more aware of issues within the business

MPS was reaccredited with the Investors In People Standard in early 2010

**Future developments**

The Chief Executive's report (see pages 2–3) refers to developments during the year and touches on future developments

For the coming year, MPS's main focus will continue to be the delivery of a high-quality, cost-effective service to members, the delivery of education and risk management courses to members and the continued strengthening of our relationship with regulators, legislators and professional representative bodies. To this end, MPS will continue to ensure that it has the internal resources necessary to meet demand from members and will continue to develop its IT and operational systems to improve their efficiency and cost effectiveness

**Donations**

Charitable donations made by MPS during the year amounted to £10,000 (2008 £11,000). Donations in 2009 were all in favour of the Charities Aid Foundation in lieu of fees waived by a Director of MPI (London) Limited. No political donations were made during the year (2008 £nil)

### Employees

During the year MPS continued to provide employees with relevant information and seek their views on matters of common concern through the Staff Consultative Group, staff briefings and through line managers. Priority is given to ensuring that employees are aware of all significant matters affecting MPS's trading position and of any significant organisational changes. MPS also seeks regular feedback from its employees and a number of different mechanisms exist for this, including a regular company-wide staff survey.

In 2005, MPS decided to adapt the existing Staff Consultative Group in order to comply with the requirements of the Information and Consultation of Employees Regulations 2005.

MPS has also sponsored the establishment of a group of staff to investigate ways that MPS can be more energy efficient and reduce waste. This group has sought advice from external consultants and issued its initial report in 2008. The report was subsequently discussed by the Senior Management Group and relevant actions were adopted to try and reduce consumption of energy and materials.

It is the policy of MPS to support the employment of disabled persons where possible, both in recruitment and by retention of employees who become disabled whilst in the employment of MPS, as well as generally through training and career development.

### Members of the Council

The names of the members of the Council of MPS who served during the year are set out on page 9.

### Corporate Governance

The Listing Rules of the Financial Services Authority require listed companies to disclose how they have applied the principles set out in Section 1 of the Combined Code prepared by the Committee on Corporate Governance and whether they have complied with its provisions throughout the period. Although not listed, MPS complies with the Combined Code where it is considered relevant to its business and constitution. The following is, where relevant, a statement in accordance with the Code.

#### Council

The Council, which is the Board of Directors of MPS, consists of a non-executive Chairman, a Chief Executive, two further executive members and eleven other non-executive members. MPS's constitution requires that the majority of Council members are doctors or dentists and that the Chairman is a doctor or dentist.

Of the non-executives (including the Chairman) at the year end, seven are doctors or dentists and five are not. The non-executives are considered to be independent. The five non-executives who are not a doctor or dentist have no financial interest in MPS other

than their fees as members of the Council. The seven non-executives who are a doctor or dentist have varying financial interests in MPS, but these are not felt sufficient to compromise their independence. They receive fees as members of the Council and some had personal membership with MPS. One received fees for providing advice to MPS on the management of three claims. Payment to members of the Council related to claims involving MPS members has the potential for a conflict of interest and MPS has a policy that Council members cannot act as expert witnesses, if their reports are to be used in court. One non-executive member of Council who left Council in June 2009 also received fees for providing risk management services to members.

MPS continues to review the transparency of the independence of its non-executive directors and to provide appropriate guidelines for all directors on their ethical conduct as a director of MPS. To this end, MPS introduced in 2008, for MPS and its subsidiary boards, a register of interests and also published internally a Code of Ethical Conduct for all staff, which will apply equally to members of the Council.

MPS has separate posts of Chairman and Chief Executive to differentiate the running of the Council from the executive responsibility for the running of the business. The Council considers that the non-executive members of the Council as a group are of a sufficient calibre and number to bring strength and independence to the Council and does not propose to nominate any one non-executive to be a senior independent member of the Council. In stating this, the Council recognises that this is not in accordance with the relevant provision of the Combined Code.

The normal retirement age for executive members of the Council is 65, a change made in 2006, prior to which normal retirement age was 60. Transition provisions have been made for those within 10 years of retirement at the date of the change. This change prompted a review of the retirement requirements for non-executives and, in 2007, members voted at the Annual General Meeting to change the Articles of Association, to remove any upper age limit for non-executive directors.

All Council members, except for the Chief Executive and the Chairman of Dental Protection Limited, are subject to election by members at the first opportunity after their appointment by the Council and to re-election (excepting the Chief Executive and the Chairman of Dental Protection Limited) at general meetings at least every three years. The Chief Executive is appointed by the Council and can be removed by the Council.

The Council recognises that not subjecting the Chief Executive to re-election is a departure from the relevant section of the Combined Code, but believes that it does not compromise the independence or integrity of the Council. The Chairman of

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**REPORT OF THE COUNCIL CONTINUED**

Dental Protection Limited is a member of the Council ex officio, and is elected to the post by the Board of Dental Protection Limited. Directors of Dental Protection Limited are elected by the shareholder of the company, which is MPS and thus the Council of MPS has the ability to appoint and remove directors of Dental Protection Limited. Non-executive members of the Council are limited to an eight-year term.

The Council met formally eight times during the year (eight times in 2008). In addition to these regular meetings, the Council also devoted the better part of a day for an additional meeting to consider and review the organisation's business objectives and strategy. The attendance record of members of the Council at the eight meetings (eight meetings in 2008) is shown in table 1 below.

The Council has a schedule of matters specifically reserved to it for decision, including strategy, financial policy and major acquisitions and disposals. All Council members have access to the advice and services of the Company Secretary and procedures exist for any member of the Council to take independent advice at MPS's expense.

Non-executive members of the Council met once during the year without the executive members and have the provision to meet without the executive at any time that such a meeting may be required. There is also the provision for the non-executive members to meet without the Chairman and executive if they wish – this was not thought necessary during 2009.

**Sub-Committees of the Council**

The Council has a Nominations, Remuneration and Audit Committee, the members of which are listed on page 9.

The Nominations Committee is chaired by the Chairman of the Council and keeps under review the composition of the Council and makes recommendations concerning all new appointments of non-executive members.

The Remuneration Committee is chaired by the Chairman of the Council and is responsible for making recommendations to the Council concerning matters relating to remuneration policy. See Remuneration Report below.

The Audit Committee is chaired by a non-executive member of the Council, Frank Attwood, (a former audit partner of an international firm of Chartered Accountants) and met twice in the year. MPS's external auditors, Chairman, Chief Executive, Finance Director, Financial Controller and Internal Audit and Compliance Officer also attend the meetings and the Committee has an opportunity to meet the external auditors without management present. Other senior managers attend for specific agenda items as required. The Audit Committee reviews the adequacy and effectiveness of risk management and control systems and reviews the scope and results of the external audit, its cost effectiveness and the independence and objectivity of the auditors. It also reviews, prior to publication, the annual financial statements and the other information included in the Annual Report. The Audit Committee also meets annually with, and reviews the work of, the independent consulting actuaries.

**TABLE 1 Attendance record of the members of the Council at Council meetings**

Member of the Council	Appointed/Retired	Meetings Attended	
		2009	2008
Frank Attwood		8	8
Keith Bradley		8	7
Ian Croxford		7	5
Nicholas Davies		7	7
Mark Davis	Appointed on 10 June 2009	4	N/A
Mark Dinwoodie	Retired on 10 June 2009	4	8
Yasmin Drabu	Appointed on 10 June 2009	4	N/A
Mary Favier		8	8
Kathryn Harley		8	7
Taj Hassan		8	6
Leela Kapila		8	8
Simon Kayll		8	8
Kevin Lewis		8	7
Ravinder Maini	Retired on 10 June 2009	2	6
Tony Mason		8	8
Elizabeth Vallance		6	7
Richard Youell		8	8

The attendance record of members of the Audit Committee is shown in table 2 below. The Committee meets in March and November.

The Audit Committee is responsible for ensuring the continued independence of the external auditors. The Committee has a written policy on this, which includes requiring the auditors to make a statement on their continued independence, placing limits on the amount of non-audit work undertaken by the auditors and having a policy covering the commissioning of non-audit services from the auditors.

Several members of the Council are members of the Board of MPI (London) Limited, which manages MPS's investment portfolio, and of the Board of MPS Risk Solutions Limited, which provides general insurance contracts to corporate healthcare providers. Both Boards are chaired by the Chairman of the Council and the other Council members are listed on page 9.

#### The Role of the Council

The Council's principal focus is the overall strategic direction, development and control of the MPS group. In addition, it is also ultimately responsible for the exercising of discretion in response to requests for assistance. In practice, this is delegated on a daily basis to the executive management and employees. However, the Council is specifically involved in exercising discretion related to potentially controversial, expensive or unusual requests for assistance.

In support of the overall strategy, the Council approves the group's values, strategic plans, annual budget and overall system of risk identification, management and internal controls. The Council also has control of the group's operating and financial performance.

The Council agrees the group's corporate governance framework, as part of which it has empowered the main management committee, the Executive Committee, who are responsible for day to day operations.

The roles of the Chairman and Chief Executive are documented and the Chairman, together with the Chief Executive and the Secretary, are responsible for ensuring that the Council is kept fully informed and is consulted on issues that are reserved to it and that decisions are made in a timely manner.

Newly appointed members of the Council are given an induction appropriate to their level of previous experience.

#### Board evaluation

The Council undertakes an annual evaluation of its performance based upon a questionnaire and the invitation for members of the Council to speak to the Chairman on performance issues. The results of the 2009 evaluation were presented to the Council by the Chairman in its February 2010 meeting and resulting actions were approved by the Council.

#### Internal control

The Council has overall responsibility for MPS's system of internal controls and for reviewing its effectiveness whilst the role of management is to implement the Council's policies on risk and control. The system is designed to manage, rather than eliminate, the risk of failure to achieve the business objectives. In pursuing these objectives, internal controls can only provide reasonable and not absolute assurance against material misstatement or loss.

There is a continuous process for identifying, evaluating and managing the significant risks faced by MPS in line with recommendations in the original and updated Turnbull report. This has been in place for the full financial year and up to the date of approval of the Annual Report.

The process involves the undertaking of regular reviews at departmental and corporate level. From these reviews, management identifies the key risks, and determines their likely significance based on the probability of the risk occurring and its likely impact on MPS if it were to do so. Management then determines what action can cost-effectively be taken.

TABLE 2 Attendance record of the members of the Audit Committee at Committee meetings

Member of Audit Committee	Appointed/Retired	Meetings Attended	
		2009	2008
Frank Attwood		2	2
Keith Bradley	Appointed on 1 July 2009	1	N/A
Ian Croxford	Appointed on 1 July 2009	1	N/A
Mark Dinwoodie	Retired on 10 June 2009	1	2
Taj Hassan	Retired on 10 November 2009	1	2
Leela Kapila		2	2
Ravinder Maini	Retired on 10 June 2009	1	1
Elizabeth Vallance		2	2

## THE MEDICAL PROTECTION SOCIETY LIMITED

### REPORT OF THE COUNCIL CONTINUED

The Council has delegated the function of monitoring the effectiveness of the system of internal control and of the risk management process to the Audit Committee. The Chairman of the Audit Committee reports outcomes of its meetings to the Council and the Council receives the minutes of all its meetings. In fulfilling its responsibilities to the Council, the Audit Committee

- Discusses with the external auditors their audit approach, and agrees any particular aspect of internal control or risk management to be reviewed by them beyond their statutory responsibilities
- Discusses with independent consulting actuaries their approach to statistical reserving of reported claims and potential claims that have yet to be reported
- Considers the results of the external auditors' work with them and with management
- Initiates as necessary and considers reports from management on systems of internal control and on the effectiveness of risk management
- Reports the results of its work, with any necessary recommendations, to the Council and ensures that actions required by the Council are implemented. One such report is made at the year-end before producing this statement

MPS has an Internal Audit and Compliance Officer whose responsibilities include internal audit. Internal audit is concerned with providing assurance over a wide range of issues, including financial, corporate and operational risks. The Internal Audit and Compliance Officer works closely with the external auditors and also attends the Audit Committee meetings.

The Audit Committee is responsible for monitoring and reviewing the internal audit function undertaken by the Internal Audit and Compliance Officer. The Audit Committee receives summaries of all internal audit reports, is involved in approving the annual internal audit plan and is able to question the Internal Audit and Compliance Officer about his work at each committee meeting.

#### Remuneration report

The Remuneration Committee is responsible for recommending to the Council, fees for members of the Council, Committees and directors of subsidiaries as well as deciding the remuneration of senior staff and receiving recommendations from the Chief Executive for the remuneration of other employees. In framing its policy, the Remuneration Committee aims to attract and retain senior staff to run MPS successfully without making excessive payments.

In 2008, MPS, for the first time, instigated an incentive scheme paying a modest reward to the nine most senior staff (excluding the Chief Executive) based on performance of a range of criteria. It remains that the non-executive members of the Council do not receive any incentive or performance-related remuneration. Because MPS is not a listed company, this report is not required to comply with the rules on Remuneration Reports.

Details of the Chief Executive's and non-executive Council Members' remuneration are included at note 6 to the accounts.

#### Relations with members

The provisions of the Combined Code relate to communication by companies with their shareholders and thus some of the details do not apply to the different relationship that MPS has with its members. However, the general tenor of the provisions is applicable to MPS and MPS values its dialogue with members. The Council also uses the Annual General Meeting to communicate financial performance with members and encourages their participation. Members of the Audit, Nomination and Remuneration committees will be present at the Annual General Meeting to respond to any relevant questions if necessary.

The notice for the Annual General Meeting is sent to members at least 20 working days before the meeting date.

#### Derivative financial instruments

During the year, MPS's investment managers held derivative financial instruments to enhance investment returns. The net recognised gains and losses resulting from holding these contracts are included in note 4 under other investment income. These instruments were held to take advantage of short-term changes in bond market prices. During the year this was achieved by entering into a number of contracts, which involve the purchase or sale of an underlying asset at a price fixed today for delivery at some date in the future. Table 3 below shows the contracts that were entered into during the year.

#### Risk characteristics of derivative financial instruments

##### *Interest rate risk*

MPS's derivatives are sensitive to interest rate movements so it is necessary to determine the interest rate risk that such contracts will be exposed to. This is done by comparing the risk of the underlying asset against the risk of the derivative. For an asset such as a bond the risk is calculated by multiplying the dirty price (the price of the bond plus accrued interest) of the bond by its modified duration. The bond future risk is then calculated by multiplying the bond risk by a conversion factor used in the pricing of the contract. The bond risk and future risk are then compared to determine the number of futures contracts that need to be held.



**Credit Risk**

Credit risk encompasses all forms of counterparty risk. MPS manages this risk through its investment policy, which sets out the type and quality of investments that can be held and the maximum exposure to any particular investment. Credit risk is further managed by all such derivative contracts being of short-term duration.

**Going concern**

Members of the Council consider that MPS has adequate resources to continue in operation for the foreseeable future and that it is therefore appropriate to adopt the going concern basis in preparing the financial statements. Members of the Council have satisfied themselves that MPS is in a sound financial position.

**Auditors**

Grant Thornton UK LLP, having expressed their willingness to continue in office, will be deemed reappointed for the next financial year in accordance with section 487(2) of the Companies Act 2006 unless the company receives notice under section 488(1) of the Companies Act 2006.

**Statement of the Council's responsibility for the Financial Statements**

The Council is responsible for preparing the Annual Report and the financial statements in accordance with applicable law and regulations.

Company law requires the Council to prepare financial statements for each financial year. Under that law the Council

have elected to prepare financial statements in accordance with United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice). The financial statements are required by law to give a true and fair view of the state of affairs of the group and parent company and of the profit or loss of the group for that period. In preparing these financial statements, the Council is required to

- select suitable accounting policies and then apply them consistently
- make judgments and estimates that are reasonable and prudent
- state whether applicable United Kingdom accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the company will continue in business

The Council is responsible for keeping adequate accounting records that disclose with reasonable accuracy at any time the financial position of the Company and enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the Company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

TABLE 3 Contracts entered into during the year

Currency	Contract Type	Currency	Contract Type
AUD	90 day bank bill	JPY	10 year bond future (LIF)
AUD	3 year bond future	JPY	3 month Euroyen TFX
AUD	10 year bond future	JPY	10 year bond future (mini JGB)
CHF	3 month bond future	USD	5 year note future
EUR	Euro-Bobl future	USD	2 year note future
EUR	Euro-Bund future	USD	10 year note future
EUR	Euro-Schatz future	USD	Long Bond future
EUR	3 month Euribor future	USD	90 day Euro future
GBP	90 day Sterling future	ZAR	Bond future
GBP	Long Gilt future	ZAR	Fixed interest rate swap
JPY	10 year bond future (CBT)	ZAR	Variable interest rate swap

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**REPORT OF THE COUNCIL CONTINUED**

In so far as each Council member is aware

- there is no relevant audit information of which the Company's auditors are unaware
- the Council members have taken all steps that they ought to have taken to make themselves aware of any relevant audit information and to establish that the auditors are aware of that information

The Council is responsible for the maintenance and integrity of the corporate and financial information included on the Company's website. Legislation in the United Kingdom governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

**Approval**

This report was approved by the Council on 14 April 2010 and signed on its behalf by

**Simon Kayll**

Company Secretary  
33 Cavendish Square, London, W1G 0PS

A handwritten signature in black ink, appearing to read 'Simon Kayll', with a stylized flourish at the end.

# Independent Auditor's report

to the Members of The Medical Protection Society Limited

We have audited the financial statements of The Medical Protection Society Limited for the year ended 31 December 2009 which comprises the consolidated income and expenditure account, the consolidated and company balance sheets, the consolidated cash flow statement, the consolidated statement of total recognised gains and losses and the related notes. These financial statements have been prepared under the accounting policies set out therein. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

This report is made solely to the Company's members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the Company's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Company and the Company's members as a body, for our audit work for this report, or for the opinions we have formed.

## Respective responsibilities of the Council and auditors

As explained more fully in the Council's Responsibilities Statement set out on pages 23–24, the Council is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. Our responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's (APB's) Ethical Standards for Auditors.

## Scope of the audit of the financial statements

A description of the scope of an audit of financial statements is provided on the APB's website at [www.frc.org.uk/apb/scope/UKNP](http://www.frc.org.uk/apb/scope/UKNP).

## Opinion on financial statements

In our opinion the financial statements

- give a true and fair view of the state of the group's and the parent Company's affairs as at 31 December 2009 and of the net contribution available to meet future liabilities and charges of the group for the year then ended,
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice, and
- have been prepared in accordance with the requirements of the Companies Act 2006.

## Opinion on other matter prescribed by the Companies Act 2006

In our opinion the information given in the Report of Council for the financial year for which the financial statements are prepared is consistent with the financial statements.

## Matters on which we are required to report by exception

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept by the parent company, or returns adequate for our audit have not been received from branches not visited by us, or
- the parent company financial statements are not in agreement with the accounting records and returns, or
- certain disclosures of directors' remuneration specified by law are not made, or
- we have not received all the information and explanations we require for our audit.



## Andrew Wood

Senior Statutory Auditor  
for and on behalf of Grant Thornton UK LLP,  
Statutory Auditor, Chartered Accountants  
Leeds, England

14 April 2010

# Financial statements

Year ended 31 December 2009

Notes	<b>CONSOLIDATED INCOME AND EXPENDITURE ACCOUNT</b> Year ended 31 December 2009	<b>2009</b>	<b>2008</b>
		<b>£'000</b>	<b>£'000</b>
	<b>Income: continuing operations</b>		
	Members' subscriptions and other income	<b>275,650</b>	252,377
	<b>Expenditure</b>		
14	Claims costs and associated legal costs (including costs of insurance)	<b>190,873</b>	160,472
	Insurance recoveries	<b>(19,700)</b>	(1,013)
14	Advisory costs and associated legal costs	<b>46,806</b>	42,906
3a	Education, publications and external relations	<b>5,461</b>	3,139
3b	Administration expenses	<b>15,640</b>	15,453
3c	Loss/(profit) on exchange movements	<b>12,570</b>	(48,940)
		<b>251,650</b>	172,017
	<b>Excess of members' subscriptions and other income over expenditure: continuing operations</b>	<b>24,000</b>	80,360
4	Income from investments	<b>29,726</b>	31,415
8	Other finance (expense)/income	<b>(2)</b>	467
	Realised (losses)/gains from disposal of investments	<b>(14,896)</b>	476
	<b>Contribution from ordinary activities before taxation</b>	<b>38,828</b>	112,718
5a	Tax on investment income and gains	<b>(79)</b>	(16,314)
16	<b>Net contribution for the year available to meet future liabilities and charges</b>	<b>38,749</b>	96,404

Notes	<b>CONSOLIDATED STATEMENT OF TOTAL RECOGNISED GAINS AND LOSSES</b>	<b>2009</b>	<b>2008</b>
		<b>£'000</b>	<b>£'000</b>
	Net contribution for the financial year	<b>38,749</b>	96,404
15	Surplus/(deficit) on revaluation of investments	<b>95,848</b>	(38,592)
15	Deficit on revaluation of fixed assets	<b>(838)</b>	(1,763)
8	Actuarial (losses)/gains on defined benefit pension scheme	<b>(8,140)</b>	683
5a	Tax charge on investment gains	<b>(9,269)</b>	(7,073)
	<b>Total recognised gains</b>	<b>116,350</b>	49,659

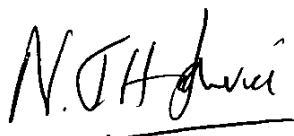
Notes	<b>NOTE OF HISTORICAL COST INCOME AND EXPENDITURE</b>	<b>2009</b>	<b>2008</b>
		<b>£'000</b>	<b>£'000</b>
	Reported net contribution before tax	<b>38,828</b>	112,718
15	Realisation of valuation gains of previous years	<b>55,477</b>	6,187
15	Difference between a historical cost depreciation charge and the actual depreciation charge of the year calculated on the revalued amount	<b>29</b>	72
	<b>Historical cost net contribution before tax</b>	<b>94,334</b>	118,977
	<b>Historical cost net contribution after tax</b>	<b>84,986</b>	95,590

# Financial statements

Year ended 31 December 2009

<b>CONSOLIDATED AND COMPANY BALANCE SHEETS</b>		<b>2009</b>	<b>2008</b>	<b>2009</b>	<b>2008</b>
		<b>GROUP</b>	<b>GROUP</b>	<b>COMPANY</b>	<b>COMPANY</b>
Notes	At 31 December 2009	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
	<b>Fixed assets</b>				
9	Tangible assets	8,606	8,705	8,428	8,537
10	Investments	1,296,999	1,132,392	856,011	766,056
		<b>1,305,605</b>	<b>1,141,097</b>	<b>864,439</b>	<b>774,593</b>
	<b>Current assets</b>				
12	Debtors – due within one year	13,925	5,223	91,615	89,773
12	– due after one year	26,714	13,692	26,714	13,692
	Bank deposit accounts	88,812	93,995	19,083	16,321
	Cash at bank and in hand	4,073	1,199	3,952	868
		<b>133,524</b>	<b>114,109</b>	<b>141,364</b>	<b>120,654</b>
13	Creditors – amounts falling due within one year	(50,346)	(64,099)	(49,179)	(41,143)
	<b>Net current assets</b>	<b>83,178</b>	<b>50,010</b>	<b>92,185</b>	<b>79,511</b>
	<b>Total assets less current liabilities</b>	<b>1,388,783</b>	<b>1,191,107</b>	<b>956,624</b>	<b>854,104</b>
14	Provision for liabilities	(473,854)	(398,306)	(470,853)	(396,064)
	<b>Net assets excluding pension (liability)/asset</b>	<b>914,929</b>	<b>792,801</b>	<b>485,771</b>	<b>458,040</b>
8	Pension (liability)/asset	(1,813)	3,965	(1,813)	3,965
	<b>Net assets</b>	<b>913,116</b>	<b>796,766</b>	<b>483,958</b>	<b>462,005</b>
15	<b>Accumulated funds</b>				
	Revaluation reserve	116,099	76,595	191	1,058
	Income and expenditure	797,017	720,171	483,767	460,947
16	<b>Funds available to meet future liabilities and charges</b>	<b>913,116</b>	<b>796,766</b>	<b>483,958</b>	<b>462,005</b>

**Nicholas Davies**  
Chairman of the Council  
14 April 2010



The Medical Protection Society Limited  
Registered Company No 36142

**CONSOLIDATED CASH FLOW STATEMENT**

Notes	Year ended 31 December 2009	2009 £'000	2008 £'000
17	Net cash inflow from operating activities	95,288	90,577
18	Returns on investment and servicing of finance	29,726	31,415
	Taxation	(29,721)	(10,367)
	Acquisition of subsidiary company	(267)	(243)
19	Capital expenditure and financial investment	(95,754)	(120,537)
		(728)	(9,155)
	Net cash inflow from management of liquid resources (comprising bank deposits and investment deposits)	3,602	6,858
	<b>Increase/(decrease) in cash in the period</b>	<b>2,874</b>	<b>(2,297)</b>

**Analysis of changes in net funds**

	At 1/1/2009 £'000	Cash flow movement £'000	At 31/12/2009 £'000
Cash at bank and in hand	1,199	2,874	4,073
Bank deposit accounts	93,995	(5,183)	88,812
Cash with investment managers	11,008	1,581	12,589
Net funds	106,202	(728)	105,474

**Reconciliation of net cash flow to movement in net funds**

	2009 £'000	2008 £'000
Increase/(decrease) in cash	2,874	(2,297)
Cash flow from decrease in net liquid resources	(3,602)	(6,858)
	(728)	(9,155)
Net funds at 1 January	106,202	115,357
<b>Net funds at 31 December</b>	<b>105,474</b>	<b>106,202</b>

# Notes to the accounts

## 1 Basis of preparation of the financial statements

The financial statements are prepared in accordance with applicable accounting standards and MPS's constitution

### Convention

The financial statements include investments and freehold property at valuation but in all other respects have been prepared in accordance with the historical cost convention. The principal accounting policies adopted by MPS within that convention are set out below

## 2 Accounting policies

### (a) Consolidation

The Group financial statements comprise a consolidation of the financial statements of the parent company (the "Company") and all its subsidiary undertakings (together, the "Group") as at 31 December and as identified in note 11. As a consolidated income and expenditure account is published, a separate income and expenditure account for the parent company is omitted from the group financial statements by virtue of Section 408 of the Companies Act 2006. The parent company net contribution for the year to 31 December 2009 was £30.9m as shown in note 15.

### (b) Subscriptions

Subscription income comprises amounts receivable during the year, apportioned to accounting periods on a time basis and stated at the fair value of the consideration receivable. It is recognised when the Company has performed its obligations and in exchange obtained the right to consideration. No geographical analysis of subscription income is shown because, in the opinion of the Council, it would be seriously prejudicial for the Group to do so.

### (c) Tangible fixed assets and depreciation

All freehold land and buildings are included at valuation. Valuations are kept up-to-date. Other tangible fixed assets are included at cost. Depreciation is provided evenly on the cost (or valuation where appropriate) of tangible fixed assets, to write them down to their estimated residual values over their expected useful lives. Where there is evidence of impairment, fixed assets are written down to recoverable amounts. Any such write down would be charged to operating profit unless it was a reversal of a past revaluation surplus in which case it would be taken to the statement of total recognised gains and losses. No depreciation is provided on freehold land.

The principal annual rates used for other assets are

Freehold buildings	– 2% per annum
Leasehold property	– over life of leases
Furniture and fittings	– 5% per annum
Office equipment	– 15% per annum
Computers	– 20%, 25% or 33.3% per annum

### (d) Translation of foreign currency transactions

Income and expenditure in foreign currencies are translated to their sterling equivalent at the rate ruling at the transaction date. Monetary assets and liabilities appearing in the balance sheet are translated at the rate of exchange ruling at 31 December or at a rate fixed in advance by way of a forward exchange contract. Any gains or losses are taken to the income and expenditure account, except for those arising from investments held in foreign currencies and at valuation, which are taken to the statement of total recognised gains and losses.

### (e) Interest receivable and dividends

Interest receivable is brought into account on an accruals basis. As MPS's equity investments are in pooled funds and unit trusts, income is reinvested rather than distributed. Such income is therefore included within unrealised gains on investments rather than being recorded in the accounts as dividend income.

### (f) Investments

Listed investments (which include cash held by the investment managers awaiting investment) are included in the balance sheet at market valuation. The net surplus or deficit on revaluation is credited or charged to the revaluation reserve. In accordance with FRS3, on disposal the proceeds are compared with the carrying value and the gain or loss credited or charged to the income and expenditure account.

Unlisted investments are included in the balance sheet at the lower of their sterling cost or net asset value.

Investments in subsidiaries are stated at cost less provision for impairment where necessary to reduce book value to recoverable amount. Cost is purchase price including acquisition expenses, but excluding any payment for accrued interest or fixed dividend entitlement.



**(g) Derivative financial instruments**

The Group's investment managers are permitted to hold derivative financial instruments to enhance investment returns. Derivatives are held at cost and as such are not fair valued through the income and expenditure account.

Realised gains and losses arising as a result of holding derivatives are taken directly to the income and expenditure account.

**(h) Costs and damages for claims of negligence**

Provision is made for estimated future costs and damages, legal costs and claims handling costs expected to arise from claims that have been notified to MPS by 31 December in respect of which the Council has exercised or is expected to exercise its discretion to provide indemnity. The estimate of these costs is stated before deducting estimated recoveries from insurers, which are disclosed separately and are recognised only when it is virtually certain that reimbursement will be received.

The discounted future settlement values are deemed to be the best estimate of these costs.

No provision is made for the potential claims that may arise from incidents that occurred before 31 December but had not been reported to MPS at that date.

**(i) Costs related to all other claims**

Provision is made at discounted future settlement values for estimated future costs, including handling costs, of these claims that have been notified to MPS by 31 December in respect of which the Council has exercised or is expected to exercise its discretion to provide assistance.

The discounted future settlement values are deemed to be the best estimate of these costs.

No provision is made for the potential claims that may arise from incidents that occurred before 31 December but had not been reported to MPS at that date.

**(j) Tax**

Provision is made in the financial statements for tax on investment and trading income received and receivable in the year, revaluation gains and losses recognised in respect of UK and International bonds and on other investments disposed of during the year.

No deferred tax provision is required to be reflected in the financial statements. Whilst there is a timing difference arising between the accounting and taxation treatment of certain non-monetary assets, in accordance with FRS19, deferred tax is not provided on timing differences arising from the revaluation of non-monetary assets, where there is no binding agreement to sell these assets at the balance sheet date.

Deferred tax is measured at the tax rates that are expected to apply in the periods when the timing differences are expected to reverse, based on tax rates and law enacted or substantively enacted at the balance sheet date. Deferred tax assets and liabilities are not discounted.

Where law or accounting standards require gains and losses to be recognised in the statement of total recognised gains and losses, the related taxation is also taken directly to the statement of total recognised gains and losses in due course.

**(k) Pensions**

MPS operates a defined benefit pension scheme. The assets of the scheme are invested and managed independently of MPS's finances. The pension scheme assets are measured using market values. Pension scheme liabilities are measured using the projected unit actuarial method and are discounted at the current rate of return on a high quality corporate bond of equivalent term and currency to the liability. Any increase in the present value of liabilities within MPS's defined benefit scheme expected to arise from employee service in the period is charged to operating profit. The expected return on the scheme's assets and the increase during the period in the present values of the scheme's liabilities arising from the passage of time are included in other finance income. Actuarial gains and losses are recognised in the consolidated statement of total recognised gains and losses.

Pension scheme surpluses, to the extent they are considered recoverable, or deficits are recognised in full on the face of the balance sheet.

Further information on the structure of the defined benefit scheme is contained within note 8 to these accounts.

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**NOTES TO THE ACCOUNTS CONTINUED**

(l) **Operating lease agreements**

Leases where substantially all of the risks and rewards of ownership are not transferred to the Group are treated as operating leases. Rentals under operating leases are charged on a straight-line basis over the period of the lease.

Operating lease incentives are recognised, on a straight-line basis, as a reduction of the rental expense over the shorter of the lease term and the period to the first rent review where market rentals will be payable.

**3a Education, publications and external relations**

Included under this classification are costs associated with developing and delivering education and risk management services to members with the aim of reducing risk, and liaising with regulators, legislators and professional representative bodies around the world on behalf of members and the wider professions, on matters relevant to MPS and its members.

**3b Administration expenses**

	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
Included under this classification are		
Operating lease rentals – Land and buildings	<b>2,173</b>	1,751
– Motor vehicles	<b>99</b>	90
– Office equipment	<b>41</b>	36
Loss on disposal of tangible fixed assets	<b>6</b>	40
Depreciation of fixed assets	<b>1,591</b>	910
Auditor's remuneration		
<i>Services to the Company and its subsidiaries</i>		
Fees payable to the Company's auditor for the audit of the annual financial statements	<b>59</b>	60
Fees payable to the Company's auditor and its associates for other services		
– Audit of the financial statements of the Company's subsidiaries pursuant to legislation	<b>12</b>	12
– Other services relating to taxation – compliance and advice	<b>64</b>	79
<i>Services to the Company's associated pension scheme</i>		
– Audit of the financial statements of the scheme pursuant to legislation	<b>5</b>	4

**3c Exchange movements**

The majority of the losses on exchange movements relate to the restatement of international bonds and cash assets held to match international liabilities. These losses are substantially offset by a corresponding decrease in international claim liabilities, which are included in costs within the increase in the overall claims provisions (note 14).

**4 Net income from investments**

	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
Bond and gilt interest	<b>26,461</b>	24,608
Bank interest	<b>1,862</b>	4,865
Other investment income	<b>1,403</b>	1,942
	<b>29,726</b>	31,415

Other investment income includes realised losses arising from derivative financial instruments, which are discussed in more detail in the Report of the Council on pages 22–23.

As noted in 2(e), dividend income from MPS's equity investments is not distributed but is reinvested and included in unrealised gains on investments rather than as investment income.

<b>5a Tax on income and gains from investments</b>	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
<b>Tax on income and gains included in the income and expenditure account for the year</b>		
UK corporation tax		
Current tax on income and gains for the year at 28% (2008 30%/28%)	<b>111</b>	16,209
Adjustment in respect of prior years	<b>(52)</b>	89
Double taxation relief	<b>(9)</b>	(14)
	<b>50</b>	16,284
Foreign tax		
Current tax on income for the year	<b>29</b>	30
<b>Tax on investment income and gains in the income and expenditure account</b>	<b>79</b>	16,314
<b>Tax on other gains included in the statement of total recognised gains and losses for the year</b>		
UK corporation tax		
Current tax charge on gains for the year at 28% (2008 30%/28%)	<b>9,269</b>	7,073
<b>Tax on other gains included in the statement of total recognised gains and losses for the year</b>	<b>9,269</b>	7,073
<b>5b Factors affecting tax charge for the year</b>		
<b>Current tax reconciliation</b>		
Differences between the current tax charge for the period and the expected tax charge based on the current rate of 28% (2008 28%) are explained below	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
Contribution before tax per accounts	<b>38,828</b>	112,718
Less non-taxable contribution (see below)	<b>(39,549)</b>	(41,437)
Income and net losses from investments included in the income and expenditure account for the year	<b>(721)</b>	71,281
Income and net losses from investments multiplied by the standard rate of corporation tax in the UK of 28% (2008 28%)	<b>(202)</b>	19,959
Effects of		
Depreciation in excess of capital allowances	<b>5</b>	7
Expenses not deductible for tax purposes	<b>-</b>	69
Loan relationship losses brought forward	<b>-</b>	(4,390)
Double tax relief	<b>(9)</b>	(14)
Adjustment in respect of prior years	<b>(52)</b>	89
Effects of standard tax rate change	<b>-</b>	354
Tax on income from unlisted investments not yet recognised	<b>308</b>	210
<b>Current tax charge for the year</b>	<b>50</b>	16,284

The non-taxable contribution above is the surplus of members' subscription income over related expenditure, which, due to MPS's mutual status, is not subject to corporation tax

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**NOTES TO THE ACCOUNTS CONTINUED**

**5c Unprovided deferred taxation**

A £14.1 million (2008: £3.7 million) tax charge would arise should MPS's equity investments and freehold property be sold at the market values at which they are included in the balance sheet.

<b>6 Emoluments of members of the Council</b>	<b>2009 £'000</b>	<b>2008 £'000</b>
Aggregate amount of emoluments paid to members of the Council (including executive members)	<b>977</b>	887
Chairman	<b>51</b>	49
Highest paid member of the Council		
Chief Executive – standard emoluments and taxable benefits	<b>254</b>	245
– bonus	<b>28</b>	–
– accrued annual defined benefit pension rights	<b>5</b>	2
– employer contributions to defined contribution pension scheme	<b>24</b>	28

There are 3 (2008: 3) executive members of the Council who are members of MPS's defined benefit pension scheme, details of which are set out in note 8.

The standard remuneration for all non-executive members of the Council (other than the Chairman) was £19,495 (2008: £18,925). An increase of £570 per annum was implemented on 1 March 2009. The following members of the Council, who were members of other Boards and Committees, received additional remuneration as detailed below.

<b>Council Member</b>	<b>Additional Remuneration (£)</b>	<b>Council Member</b>	<b>Additional Remuneration (£)</b>
Frank Attwood	14,096	Kathryn Harley	19,330
Keith Bradley	1,185	Taj Hassan	7,931
Ian Croxford	1,185	Leela Kapila	4,717
Mark Davis	1,185	Ravinder Mani	2,091
Mark Dinwoodie	2,091	Elizabeth Vallance	2,358
Mary Favier	2,358	Richard Youell	2,358

In addition, and as stated in the Report of the Council on page 19, 1 member of the Council received fees for providing advice to MPS on the management of three claims, 1, before retiring from Council in June, received fees for providing risk management services to members and 5 had personal membership of MPS.

**7 Employees**

The average number of people employed by the Group and the Company during the year was 382 (2008: 333).

Costs in respect of these employees were	<b>2009 £'000</b>	<b>2008 £'000</b>
Wages and salaries	<b>17,344</b>	14,539
Social security costs	<b>1,771</b>	1,453
Pension costs	<b>1,985</b>	2,395
	<b>21,100</b>	18,387

## 8 Pensions

MPS operates a funded defined benefit pension scheme, The MPS Pension Scheme. The scheme funds are administered by Trustees and are independent of MPS's finances. Contributions are paid to the scheme in accordance with the Schedule of Contributions agreed between the Trustees and MPS.

The last full actuarial valuation as at 31 December 2008 was updated to the accounting date by an independent qualified actuary in accordance with FRS17. As required by FRS17, the value of the defined benefit liabilities has been measured using the projected unit method.

The following tables set out the key FRS17 assumptions used for the scheme. The tables also set out, as at the accounting date, the fair values of the assets, analysed by asset class, the present value of the scheme liabilities and the resulting pension deficit. FRS17 requires that this deficit be shown as "Pension liability" on the face of the balance sheet.

Principal actuarial assumptions	At 31 December 2009 % pa	At 31 December 2008 % pa
Price inflation	3.8	3.1
Discount rate	5.6	6.4
Pension increases (LPI 5%)	3.7	2.9
Pension increases (LPI 3%)	2.8	2.5
Salary growth	5.3	4.6
Expected return on assets at start of year	5.8	6.3

On the basis of the assumptions used for life expectancy, a male pensioner currently aged 60 would be expected to live for a further 28.1 years (2008: 28.0 years). Allowance is made for future improvements in life expectancy.

Balance sheet	At 31 December 2009 £'000	At 31 December 2008 £'000
Defined benefit obligation	57,495	40,987
Fair value of scheme assets	(55,682)	(44,952)
<b>Pension liability/(asset) in the balance sheet</b>	<b>1,813</b>	<b>(3,965)</b>

The current allocation of pension scheme assets is as follows	At 31 December 2009 %	At 31 December 2008 %	At 31 December 2009 £'000	At 31 December 2008 £'000
Equities	60	51	33,420	22,681
Bonds	19	23	10,701	10,315
Liability driven investment	19	24	10,767	10,920
Property	1	1	595	635
Cash	1	1	199	401
<b>Total</b>	<b>100</b>	<b>100</b>	<b>55,682</b>	<b>44,952</b>

The following amounts are recognised in the income and expenditure account	2009 £'000	2008 £'000
Current service cost	1,892	2,279
Interest cost	2,662	2,607
Expected return on pension scheme assets	(2,660)	(3,074)
<b>Total expense recognised in income and expenditure account</b>	<b>1,894</b>	<b>1,812</b>

Within the income and expenditure account, current service costs are recognised within administration expenses, and the net of interest costs and the expected return on pension scheme assets is recognised as other finance (expense)/income. For 2009 this was an expense of £2,000, and for 2008, an income of £467,000.

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**NOTES TO THE ACCOUNTS CONTINUED**

**8 Pensions: continued**

<b>The defined benefit obligation moved over the year as follows</b>	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
Opening defined benefit obligation	<b>40,987</b>	44,831
Current service cost	<b>1,892</b>	2,279
Interest cost	<b>2,662</b>	2,607
Contributions by scheme members	<b>587</b>	500
Actuarial losses/(gains)	<b>12,618</b>	(8,286)
Benefits paid	<b>(1,251)</b>	(944)
<b>Closing defined benefit obligation</b>	<b>57,495</b>	40,987

<b>The fair value of the scheme assets moved over the year as follows</b>	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
Opening fair value of scheme assets	<b>44,952</b>	47,672
Expected return on scheme assets	<b>2,660</b>	3,074
Actuarial gains/(losses)	<b>4,478</b>	(7,603)
Contributions by the employer	<b>4,256</b>	2,253
Contributions by scheme members	<b>587</b>	500
Benefits paid	<b>(1,251)</b>	(944)
<b>Closing fair value of scheme assets</b>	<b>55,682</b>	44,952

<b>The actual return on scheme assets was</b>	<b>7,138</b>	(4,529)
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Over the year to 31 December 2009, MPS made contributions of £4,255,601 (2008 £2,252,737) to the scheme. It has been agreed that future employer contributions will be at a rate of 16% of pensionable salaries for 80<sup>th</sup> scale members, 23% of pensionable salaries for other scale members and a further £1,500,000 pa to fund the deficit revealed as part of the 2008 valuation. Contributions will be reviewed following the completion of the next actuarial valuation due as at 31 December 2011.

<b>The following amounts are recognised in the statement of total recognised gains and losses</b>	<b>2009</b>	<b>2008</b>
	<b>£'000</b>	<b>£'000</b>
<b>Actuarial losses/(gains)</b>	<b>8,140</b>	(683)

<b>Five year history</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>	<b>2005</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
Defined benefit obligation	<b>57,495</b>	40,987	44,831	43,654	39,451
Fair value of scheme assets	<b>(55,682)</b>	(44,952)	(47,672)	(43,211)	(38,191)
Deficit/(surplus)	<b>1,813</b>	(3,965)	(2,841)	443	1,260
Experience adjustments on scheme liabilities	<b>385</b>	—	—	814	—
Experience adjustments on scheme assets	<b>(4,478)</b>	7,603	(766)	(1,595)	(3,554)

9 Tangible fixed assets	Freehold property	Leasehold property	Computers, furniture, fittings and office equipment	Motor vehicles	Total
	£'000	£'000	£'000	£'000	£'000
<i>Group</i>					
<b>Cost or valuation</b>					
At 1 January 2009	5,000	1,570	7,178	–	13,748
Additions	309	438	1,564	25	2,336
Disposals	–	–	(210)	–	(210)
Revaluation	(959)	–	–	–	(959)
<b>At 31 December 2009</b>	<b>4,350</b>	<b>2,008</b>	<b>8,532</b>	<b>25</b>	<b>14,915</b>
<b>Depreciation</b>					
At 1 January 2009	–	437	4,606	–	5,043
Provided in year	121	229	1,239	2	1,591
Released on disposals	–	–	(204)	–	(204)
Released on revaluation	(121)	–	–	–	(121)
<b>At 31 December 2009</b>	<b>–</b>	<b>666</b>	<b>5,641</b>	<b>2</b>	<b>6,309</b>
<b>Net book value</b>					
<b>At 31 December 2009</b>	<b>4,350</b>	<b>1,342</b>	<b>2,891</b>	<b>23</b>	<b>8,606</b>
At 31 December 2008	5,000	1,133	2,572	–	8,705
<i>Company</i>					
<b>Cost or valuation</b>					
At 1 January 2009	5,000	1,515	6,957	–	13,472
Additions	309	426	1,503	25	2,263
Disposals	–	–	(208)	–	(208)
Revaluation	(959)	–	–	–	(959)
<b>At 31 December 2009</b>	<b>4,350</b>	<b>1,941</b>	<b>8,252</b>	<b>25</b>	<b>14,568</b>
<b>Depreciation</b>					
At 1 January 2009	–	436	4,499	–	4,935
Provided in year	121	225	1,181	2	1,529
Released on disposals	–	–	(203)	–	(203)
Released on revaluation	(121)	–	–	–	(121)
<b>At 31 December 2009</b>	<b>–</b>	<b>661</b>	<b>5,477</b>	<b>2</b>	<b>6,140</b>
<b>Net book value</b>					
<b>At 31 December 2009</b>	<b>4,350</b>	<b>1,280</b>	<b>2,775</b>	<b>23</b>	<b>8,428</b>
At 31 December 2008	5,000	1,079	2,458	–	8,537

All the leasehold properties held at 31 December 2009 are short leaseholds

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**NOTES TO THE ACCOUNTS CONTINUED**

**9 Tangible fixed assets: continued**

**Assets included at valuation**

The freehold property was originally revalued on 31 December 1999 on the basis of the Existing Use Value including notional directly attributable acquisition costs. The valuation was independent and external and was carried out by DTZ Debenham Tie Leung, Chartered Surveyors, in accordance with the Appraisal and Valuation Manual of the Royal Institute of Chartered Surveyors. In the intervening period further full and interim valuations have been carried out by the above Chartered Surveyors in accordance with FRS15, Tangible Fixed Assets. The last full valuation was carried out on 31 December 2009.

If the freehold property had not been revalued it would have been included in the balance sheet at the following amount

	£'000
Cost	5,281
Depreciation	(1,121)
<b>At 31 December 2009</b>	<b>4,160</b>
At 31 December 2008	3,943

**Capital commitments**

Capital expenditure approved and contracted for amounted to £ nil (2008: £ nil)

**10 Investments**

	2009 Group £'000	2008 Group £'000	2009 Company £'000	2008 Company £'000
Valuation or cost at 1 January	1,132,392	1,015,393	766,056	31,009
Additions and increase in investment in subsidiary undertakings	645,339	337,910	90,267	735,610
Disposals at carrying value	(566,817)	(220,316)	(45)	–
Provision for impairment of investment in subsidiary undertakings	–	–	(267)	(563)
Movement in cash	1,581	3,758	–	–
Foreign exchange (losses)/gains on listed investments	(11,344)	34,239	–	–
Surplus/(deficit) on revaluation of listed investments	95,848	(38,592)	–	–
<b>At 31 December</b>	<b>1,296,999</b>	<b>1,132,392</b>	<b>856,011</b>	<b>766,056</b>
<b>Investments comprise</b>				
Listed on UK Stock Exchange				
– Equities	105,604	81,434	–	–
– Government and other bonds	688,532	657,255	–	–
Listed on overseas Stock Exchanges				
– Equities	182,276	126,223	–	–
– Government and other bonds	229,014	221,443	–	–
Underlying assets listed on multiple Stock Exchanges	40,508	–	–	–
Unlisted	38,476	35,029	–	–
Shares in group undertakings	–	–	856,011	766,056
Cash	12,589	11,008	–	–
	<b>1,296,999</b>	<b>1,132,392</b>	<b>856,011</b>	<b>766,056</b>
Historical cost of investments	1,155,646	1,020,066	856,011	766,056



## 11 Investment in subsidiary undertakings

MPS has the following interests in subsidiary undertakings

Name	Parent and group interest in ordinary shares and voting rights	Cost of parent investment £'000	Country of incorporation or registration	Nature of business
Dental Protection Limited	100%	–	England	To manage the advisory and administrative affairs of the dental division of MPS
MPI (London) Limited	100%	845,001	England	To manage the investment portfolio
DPL Australia Pty Limited	100%	–	Australia	To manage the administrative affairs of Dental Protection Limited in Australia
MPS Risk Solutions Limited	100%	11,000	England	The provision of general insurance contracts to organisations in the healthcare sector
MPS Periodical Payments Trustee Limited	100%	–	England	Corporate Trustee
MPS Holdings Australia Pty Limited	100%	10	Australia	Holding company
The Cognitive Consulting Group Pty Limited*	100%	–	Australia	To provide communication skills and risk management training to healthcare professionals in Australia

\*Indirectly owned by MPS

All the above subsidiaries operate in their country of incorporation or registration

MPS Risk Consulting Limited, a previously 100% owned subsidiary, was dissolved on 12 May 2009. The carrying value of the parent company investment of £45,000 was released on disposal as shown in note 10.

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**NOTES TO THE ACCOUNTS CONTINUED**

<b>12 Debtors</b>	<b>2009 Group £'000</b>	<b>2008 Group £'000</b>	<b>2009 Company £'000</b>	<b>2008 Company £'000</b>
<b>Receivable within one year</b>				
Corporation tax	215	-	-	-
Trade debtors	356	410	45	-
Recoverable insurance claims	8,905	1,521	8,905	1,521
Amounts owed by subsidiary undertakings	-	-	78,862	85,061
Other debtors	760	333	201	276
Prepayments	3,689	2,959	3,602	2,915
	<b>13,925</b>	<b>5,223</b>	<b>91,615</b>	<b>89,773</b>
<b>Receivable after one year</b>				
Recoverable insurance claims	26,714	13,692	26,714	13,692
<b>Total debtors</b>	<b>40,639</b>	<b>18,915</b>	<b>118,329</b>	<b>103,465</b>

<b>13 Creditors: amounts falling due within one year</b>	<b>2009 Group £'000</b>	<b>2008 Group £'000</b>	<b>2009 Company £'000</b>	<b>2008 Company £'000</b>
Corporation tax	-	20,158	1,832	31
Other taxes and social security	1,367	1,094	1,326	1,050
Other creditors and accruals	10,997	9,576	9,482	7,750
Deferred subscription income	37,982	33,271	36,539	32,312
	<b>50,346</b>	<b>64,099</b>	<b>49,179</b>	<b>41,143</b>

<b>14 Provision for liabilities</b>	<b>Reported negligence claims £'000</b>	<b>Reported other claims £'000</b>	<b>Claims handling £'000</b>	<b>Total claims £'000</b>
<i>Group</i>				
At 1 January 2009	354,963	27,170	16,173	398,306
Movements in the year				
- Charged to the income and expenditure account				
- Reported negligence claims	180,046	-	10,827	190,873
- Reported other claims	-	29,538	17,268	46,806
Paid	(117,024)	(22,559)	(22,548)	(162,131)
<b>At 31 December 2009</b>	<b>417,985</b>	<b>34,149</b>	<b>21,720</b>	<b>473,854</b>
<i>Company</i>				
At 1 January 2009	352,828	27,170	16,066	396,064
Movements in the year				
- Charged to the income and expenditure account				
- Reported negligence claims	179,171	-	10,785	189,956
- Reported other claims	-	29,538	17,268	46,806
Paid	(116,872)	(22,559)	(22,542)	(161,973)
<b>At 31 December 2009</b>	<b>415,127</b>	<b>34,149</b>	<b>21,577</b>	<b>470,853</b>

**14 Provision for liabilities: continued**

The reported negligence claims provision is the estimated discounted future settlement values for damages and legal costs in respect of all negligence claims notified by 31 December. The reported other claims provision is the estimated discounted future settlement value of legal costs relating to these claims notified by 31 December. The claims handling provision is the estimated internal cost of managing all reported claims to conclusion.

The timing of individual claim payments is uncertain, as they are the subject of litigation.

The reported negligence claims provision is stated before insurance recoveries of £33.4m (2008: £15.2m) that are estimated to be recoverable from MPS's insurers.

Although FRS12 requires that the unwinding of the discount within a provision be shown separately, it is not considered practical for these provisions, due to the complexities of the many actuarial calculations involved.

	Revaluation reserve £'000	Income and expenditure £'000	Accumulated £'000
<b>15 Movement on reserves</b>			
<i>Group</i>			
At 1 January 2009	76,595	720,171	796,766
Surplus on revaluation of listed investments	95,848	–	95,848
Deficit on revaluation of fixed assets	(838)	–	(838)
Realised on disposal of investments	(55,477)	55,477	–
Actuarial losses recognised in pension scheme	–	(8,140)	(8,140)
Tax charge on recognised investment gains	–	(9,269)	(9,269)
Release of depreciation on revalued property	(29)	29	–
Net contribution for the year after tax	–	38,749	38,749
<b>At 31 December 2009</b>	<b>116,099</b>	<b>797,017</b>	<b>913,116</b>
<i>Company</i>			
At 1 January 2009	1,058	460,947	462,005
Deficit on revaluation of fixed assets	(838)	–	(838)
Actuarial losses recognised in pension scheme	–	(8,140)	(8,140)
Release of depreciation on revalued property	(29)	29	–
Net contribution for the year after taxation	–	30,931	30,931
<b>At 31 December 2009</b>	<b>191</b>	<b>483,767</b>	<b>483,958</b>

	2009 £'000	2008 £'000
<b>16 Reconciliation of movements in funds available to meet future liabilities and charges</b>		
Net contribution for the financial year	38,749	96,404
Other recognised gains/(losses) relating to the year	86,870	(39,672)
Tax charge on investment gains	(9,269)	(7,073)
Total recognised gains	116,350	49,659
Opening funds available to meet future liabilities and charges	796,766	747,107
<b>Closing funds available to meet future liabilities and charges (see note 21)</b>	<b>913,116</b>	<b>796,766</b>

**THE MEDICAL PROTECTION SOCIETY LIMITED**  
**NOTES TO THE ACCOUNTS CONTINUED**

	2009 £'000	2008 £'000
<b>17 Reconciliation of excess of income over expenditure to operating cash flows</b>		
Excess of income over expenditure	24,000	80,360
Depreciation charges	1,591	910
Loss on disposal of tangible fixed assets	6	40
Increase in provisions	75,548	51,911
(Increase)/decrease in debtors	(21,509)	298
Increase/(decrease) in creditors	6,672	(8,729)
Foreign exchange losses/(gains) on listed investments	11,344	(34,239)
Cash pension contributions (more)/less than current service cost and past service gain	(2,364)	26
<b>Net cash inflow from operating activities</b>	<b>95,288</b>	<b>90,577</b>

	2009 £'000	2008 £'000
<b>18 Returns on investment and servicing of finance</b>		
Interest received	1,862	4,865
Bond and gilt interest received	26,461	24,608
Other interest	1,403	1,942
<b>Net cash inflow from returns on investments and servicing of finance</b>	<b>29,726</b>	<b>31,415</b>

	2009 £'000	2008 £'000
<b>19 Capital expenditure and financial investment</b>		
Purchase of tangible fixed assets	(2,336)	(3,455)
Purchase of investments	(645,339)	(337,910)
Proceeds from sale of fixed assets	–	36
Proceeds from sale of investments	551,921	220,792
<b>Net cash outflow from capital expenditure and financial investment</b>	<b>(95,754)</b>	<b>(120,537)</b>

	2009 Group £'000	2008 Group £'000	2009 Company £'000	2008 Company £'000
<b>20 Commitments</b>				
<b>Operating lease commitments</b>				
Land and buildings, leases expiring				
– Two to five years	1,343	1,324	1,343	1,324
– Greater than five years	1,063	815	1,063	815
	<b>2,406</b>	<b>2,139</b>	<b>2,406</b>	<b>2,139</b>
Motor vehicles, leases expiring				
– Within one year	2	4	2	4
– Two to five years	12	10	12	10
	<b>14</b>	<b>14</b>	<b>14</b>	<b>14</b>
Office equipment, leases expiring				
– Within one year	–	9	–	9
– Two to five years	49	24	49	24
	<b>49</b>	<b>33</b>	<b>49</b>	<b>33</b>

MPS has guaranteed that its subsidiaries have adequate resources to meet their liabilities as they fall due

MPS has issued a letter of credit to MPS Risk Solutions Limited in the sum of £20 million

## **21 Potential claims that have not yet been reported**

Unreported incidents up to 31 December may give rise to claims in the future. These potential claims, which do not constitute a contingent liability because recognition of the liability is dependent on the Council exercising its discretion, will, to the extent to which the Council exercises that discretion, become MPS's responsibility under the occurrence basis of cover MPS provides. The funds on the balance sheet at 31 December 2009 are more than sufficient to cover the cost of these potential claims based on an actuarial assessment prepared by an independent firm of consulting actuaries and detailed in a report prepared in accordance with the Guidance Note "General Insurance Business Actuarial Reports, (GN12)" published by the Faculty of Actuaries and Institute of Actuaries.

## **22 Obligations of Members**

MPS has the right to call each year for additional funds from its members up to an amount equal to the annual subscription.

## **23 Guarantee**

MPS is limited by guarantee not exceeding £1 per member.

## Professional advisers

### Investment Managers

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### Solicitors

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