Good health and safety can be a vital tool to help your organisation comply with legislation and reduce accidents and incidents which could cost you time and money. Liability allegations may lead to claims where there is a perceived negligence on the part of your organisation. In this bulletin Gallagher looks at key components of a risk management strategy to defend liability claims.

Claims can occur in a number of ways, from loose flooring or carpet leading to a fall, or a potential back injury due to lifting a heavy object incorrectly where no manual handling training has been provided. With such a broad spectrum of potential claims scenarios to protect your organisation against, it is important to take practical steps to reduce your risk such as keeping areas dry and clear of obstacles, adequate lighting, and storing waste away from the building. These steps can make significant differences in the likelihood of you receiving a claim let alone having to defend one.

WHAT SHOULD A GOOD HEALTH & SAFETY STRATEGY INCLUDE?

Ideally, a robust health & safety plan should incorporate some of the following elements:

• Risk assessments performed wherever a situation could potentially result in injury. Full written records should be kept of each assessment, and each risk should be addressed based on its seriousness.

• Adequate training should be provided to new employees and refresher training regularly provided to existing employees. And don’t forget each training event needs the participants to sign that they have attended and understood the training.

• Occupational health schemes can help you to keep track of your employees’ fitness and identify work processes which may cause physical strain to your employees, allowing you to put systems in place to prevent injury.

• Post-incident investigations allow you to understand what happened and how the incident could be prevented in future. You should interview anyone involved and collect photographic evidence.

• There should be a documentation gathering process in place. This should include notes from investigations, risk assessments, training records and equipment maintenance logs.
THE IMPORTANCE OF RECORD KEEPING

It is important to keep records of all the processes you have in place and details of all training provided, as if a claim does occur you’ll be able to provide your insurer with the evidence they need to defend your claim. For example if an employee injures themselves lifting a heavy object then evidence that they have attended a manual handling course and completed the appropriate training could potentially work in your favour.

We do not recommend passing a claim to your insurers and then forgetting about it. Instead, by cooperating fully with your insurers, you will be able to work together to defend losses where possible. Claims may breed more claims, so if you fail to properly investigate a claim the first time you may end up dealing with the same type of claim over and over again. This in turn can lead to higher pay outs, increased legal costs and even reputational damage. However, if an allegation is successfully defended and you reduce the risk of similar claims occurring in the future it could have a positive effect on your premium over time.

LIABILITY CLAIM INFORMATION GATHERING CHECKLIST

This checklist provides a guide to some of the documents which will come in useful should you need to report a claim. This is not an exhaustive list and additional information may be requested from the insurers and/or Loss Adjusters involved in processing your claim.

- Accident Report Form
- RIDDOR Form (F2508)
- Witness Statements
- Post Incident Investigation Reports/Notes
- Risk Assessments (Pre and Post Incident)
- CCTV Recording
- Employee File Including Training Records
- Wage Details (13 Weeks Pre and Post Absence)
- Inspection/Maintenance Logs
- Cleaning Logs
- Details Of Any Visits/Correspondence
- Post Incident From EHO/HSE

Please be aware that some of these documents will not be relevant in the case of a public liability claim.

OUR CONCLUSIONS

While you may not be able to prevent claims occurring, there are steps you can take to reduce the likelihood of a successful claim being made against you. The correct training processes teamed with meticulous record keeping and regular risk assessments can make a significant difference to the number and value of claims you receive, plus if a claim does occur then your insurer may have the evidence needed to successfully defend the claim.

Gallagher has a team of Risk Consultants and Claims Professionals that can work on this area further with you, so if you wish to review your existing risk management processes or work to develop a more robust strategy we can help – please get in touch using your usual Gallagher representative.

WOULD YOU LIKE TO TALK?

If you have any questions about defending claims or risk management, please get in touch with us on:

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