

## Accidents Will Happen

In this current economic climate it is accepted by insurers that there will be an increase in claims for personal injuries. However, just because there has been an accident does not always mean that someone is at fault.

### Personal injury claims include:

- ✓ Claims by members of staff.
- ✓ Claims by third parties such as parents, contractors or other visitors to the premises.
- ✓ Claims by children's via their parents.

The key to defending claims is good document keeping which will not only protect the business in the event of an allegation or claim arising but will improve workplace practices.

Whilst document keeping may seem onerous at the time, in the long run it can save time and effort as well as expense when insurers are investigating or defending a Personal Injury claim.

Personal Injury is a wide area with tripping and slipping claims amongst the most common claims you may come across in a nursery setting. Other potential claims to be aware of include manual handling claims and less commonly falls from height. Personal Injury claims also encompass claims involving assault, abuse and neglect. By way of definition:

“Abuse” is defined as ‘an intentional assault - whether physical or sexual - by a carer on a child.

“Neglect” is defined as ‘a lack of proper care of a child by a nursery and their staff so as to result in injury’.

When an insurer needs to investigate claims they will require access to certain documents which will vary depending on the particular circumstances of the case. By way of general example in a case involving slipping it will be important to identify documents in relation to cleaning and maintenance of the floor in question.

They will look at not only the existence of these documents but when they were completed, who they were completed by, whether they have been completed satisfactorily and whether the document has been reviewed when it ought to have been reviewed. When they are considering a claim or potential claim, they will look at contemporary documentation i.e. documents that have been created at the time of the accident or in response to it. These are often the most important

documents and will determine whether we are able to successfully defend a claim. Therefore please remember to seek guidance from your insurance broker or insurance company before responding to any claim being made against you.

A checklist of documents that you may be asked to provide in the event of an accident occurring is attached although the actual documents required, will vary depending the particular nature of the incident.

## Checklist of Documents

**Accident Book** - this is of importance in most type of claims. The nursery must have an accident book which is kept in a place where all staff can access it. This is an important piece of contemporaneous evidence and staff must be made aware the necessity of completing the form.

**Accident Report Form** - further evidence of the incident in question and again key contemporaneous documentation. Report may include investigation findings of supervisors/ manager. The report form may contain a section about how future accidents of the same type might be prevented. Care must be taken when completing this section. If changes to practice are required this may prejudice the nursery should a claim for personal injury arise.

**Accident Investigation Report** - this may form part of the incident report or may be a separate document where a manager has investigated the incident, spoken to witnesses and ascertained the root cause of the incident. It may be necessary for the nursery to take witness statements from those members of staff concerned in an incident.

**Maintenance records** - records to show that the building and any work equipment has been maintained in good repair. For example records may be required in a outdoor slipping case to show that a flagged area has been treated with chemicals to prevent the build up of moss and algae.

**Personnel File of Nursery Nurse/Training records** - This will depend on the circumstances but if there are allegations or wrongdoing on the part of a nursery nurse towards a child then it will be of importance. Details of their training and qualifications, when employed, were they competent to deal with the situation in which they faced. What type of training did they receive including course notes, simply a record that they attended a course is not enough. Should a claim arise these are the type of questions that will be asked:

1. What was the recruitment process for that employee?
2. Did the recruitment process follow nursery guidelines/process for recruitment?
3. Were references taken?
4. Was that employee monitored / appraised?
5. Was there a history of complaints against that employee?

**Staff List For the Day in Question** - was there a sufficient ratio between staff and children? Was there a sufficient ratio of suitably qualified staff? This will be of relevance for example if there is an allegation that a child suffered an accident due to inadequate supervision / staffing levels.

**Handover records** - were any particular problems with a child flagged up for the incoming shift. For example if a child was unwell staff need to be informed of this so that they can monitor a situation and act if necessary.

**External Inspection reports** - for example Ofsted- to give background information on the way the nursery is run and if there were any areas of concerns which may be relevant to the incident in question.

**Child's Records** - this should include background information e.g. pre-admission details. How was the child referred- was it by an external agency? Was the child assessed before admission to the nursery? This will be of relevance if an allegation arises that it was appropriate for a particular child to attend a nursery as they may have special requirements such as medical or educational needs.

**Care plan / risk assessments** - In relation to individual children. Did a child have specific needs / requirements and were staff aware of this? For example did a child need a specific type of chair- using the wrong type can lead to an accident. Any such risk assessments / care plans must be updated / assessed as necessary or at regular intervals.

**Provisions for medical intervention** - is there a protocol for the involvement of the GP? Is there a protocol for referral to hospital in emergency or non-emergency situations.

**Risk assessments** - risk assessments are required for virtually all types of activity within nursery.

**Daily records** - are they properly completed? Any incidents of note must be recorded either in the daily records or in a separate incident book. This will help build up a picture of a child's behaviour and flag up any concerns.

It is worth reviewing these documents to ensure that they are maintained within your setting as although they may seem excessive, it is only when a claim occurs that these are requested. The more comprehensive the documents are then the greater chance the insurers will have in defending a claim that is purely an accident.

A handwritten signature in black ink that reads "Jackie Hyde" with a stylized flourish at the end.

**Jackie Hyde**

**Director**  
**dot2dot Nursery Insurance**