

# Accidents will happen



Jerry Beere gives nursery owners a timely reminder about their liabilities for accidents, which are a constant daily risk in any nursery

*'This makes it a condition that you take all reasonable precautions to prevent an accident happening'*

**A**s a nursery owner, you are responsible in the event that a member of staff, member of the public or a child in your care has an accident and you have to pay compensation and legal costs.

Similarly, if you are responsible for a third party's property being damaged – perhaps a child in your care has kicked a football through a neighbour's window – then you will have to pay for the damage.

Since May, you have also faced the possibility of a prosecution under the Corporate Manslaughter Act, in the event of a fatality occurring at your business.

The liability sections of your insurance policy are designed to protect you in these eventualities (though you should confirm with your company that the policy covers you for the legal costs involved in Corporate Manslaughter Prosecutions).

But you should remember that insurance is the last resort in the event that all other systems and procedures have failed.

Your policy will certainly have a reasonable care condition in it. This makes it a condition that you take all reasonable precautions to prevent an accident happening.

Reasonable precautions mean things like keeping the buildings in a reasonable state of repair, complying with all relevant statutes and regulations, exercising due care in the supervision of employees.

It is a rarely enforced condition of an insurance policy but it is there and it can be invoked by the company in the event of an egregious dereliction of care.

Therefore, before the insurance comes the risk assessments and the risk management. Properly conducted risk assessments must be followed by properly managed risk management. There's no point conducting a thorough risk assessment if you or your managers don't follow through with good practice.

The two most serious accidents to have been reported to us in the last year came about not because of

inadequate risk assessments but poor risk management. Both settings had

perfectly satisfactory risk assessments in place. The problems occurred because the risks had been neglected and inadequately managed: a piece of equipment had not been removed; an inexperienced assistant was given responsibility beyond her experience.

Just as you can't rely on a good risk assessment to prevent accidents, neither should you rely on external validation by agencies like Ofsted.

We have been involved in two very serious incidents over the last five years. In both cases, Ofsted had inspected the settings a few weeks before the incident, which had revealed nothing amiss.

In one instance, Ofsted had actually inspected the piece of equipment, which caused the accident and had made no adverse comment.

Accidents can and do occur, even in the best run, most safety conscious nurseries.

A completely safe nursery would presumably also be a completely sterile place for children and staff.

Your insurance policy is there to give you ultimate peace of mind but the prevention of accidents begins a long way before the insurance policy becomes relevant. ■



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