

LEARN FROM OUR CLAIMS EXPERIENCE: HOW TO IMPROVE YOUR RISK ASSESSMENT DOCUMENTATION AND CARRY OUT A POST INCIDENT REVIEW

RISK ASSESSMENT ('RA') VERSION CONTROL

- The front page of every Risk Assessment should show the document control. This should include the dates of all previous versions of the RA and the date of the next review.
- Risk assessments must be signed and dated.
- The assessors name and role must always be legible.
- There must be a central procedure to retain old versions of a risk assessment so they can be supplied to your insurer in the event of a claim. If only the latest version of a risk assessment is available, it may not have applied at the date of the accident giving rise to the claim and it will make it almost difficult to defend the claim.
- Risk assessments should be reviewed regularly and no less than annually AND after an incident (injury or near miss)- this is often overlooked.

RISK ASSESSMENTS SHOULD BE CAPABLE OF BEING FOLLOWED WITHOUT ADDITIONAL INFORMATION

- i. Your employees should be able to read it and understand what safety precautions need to be followed. Do not use abbreviations unless you explain them in the document.
- ii. Risk assessments frequently refer to 'warning signs' being in position around an activity but no reference to what they say, or how that impacts on the management of the activity. Likewise a mitigation measure that "users will be reminded of the rules" is inadequate. If the rules or signs are a mitigation measure, their content should be explicit in the risk assessment. These are central to the risk assessment. Consider what the signs/rules say and review your risk assessment to make sure they are consistent. Take photographs of the signage and attach them to your risk assessment.
- iii. A risk assessment which says an area is "fully supervised" is inadequate. What does this mean? What is the policy on the ratio of supervisors to users for that activity? Has that ratio taken into account the standard operating procedure for the activity, the supervisor's visibility, supervision zones, the user's age, behaviour, layout of the equipment?
- iv. If a risk assessment refers to and relies on 'manufacturers guidance', that guidance must be stated and you must ensure that guidance remains appropriate, taking into account your layout of the equipment, a user's age and behaviour. Anybody reading the risk assessment needs to know what guidance they should be following.

- v. If you refer to an internal policy, e.g. "three strike ruling" or "no double bouncing" you must explain what you mean in the risk assessment. Attach a copy of the policy or set it out in full.
- vi. What does your three strike policy say? It should include the opportunity for immediate removal of an individual after one grossly negligent or dangerous act, otherwise it could be alleged that you permit dangerous acts to proceed before you take action.
- vii. We frequently see reference to a rule that there should be "no double bouncing". It is rarely defined. If you mean only one person can bounce on a trampoline at a time you must state that clearly in the risk assessment, and in the safety rules, and in your signage. You have a duty to ensure all your users understand the instructions including children.
- viii. Many risk assessments refer to daily checks of equipment. Consider if the particular equipment should be checked more regularly than that if there is an opportunity for it to become damaged or to be affected by heat/cold giving rise to condensation, sweat, or spillages.
- ix. Avoid the word 'should' in a risk assessment because that is statement of intent not an action. Avoid putting the onus of responsibility onto users. This is not the purpose of a risk assessment. This is your statement about how you will manage a risk.

For example:

- Instead of saying as a mitigation measure ... 'users should exit following directional signs' ... instead state "supervisors will ensure that users exit using directional signs".
 - Instead of "Noise levels should be low enough for customers to hear" state ... "Supervisors will monitor noise levels to ensure customers can hear safety instructions"
 - Instead of saying "users are not to perform beyond their ability" ... (because users don't see this risk assessment but your supervisors do) state ... "supervisors will check experience levels before a participant starts the activity and will instruct them not to perform beyond their ability level".
- x. When identifying risks, separate out significantly different risks so that the mitigation measures appropriately address the risk. We frequently see a long list of risks and then a long list of mitigation measures none of which address the actual risks.

- xi. Ensure that all mitigation measures are genuinely taking place all the time. Can you prove it? How? Does your supervisor training address all these measures and monitor compliance?
- xii. Ensure your training documents and safety rules do not conflict. We have seen supervisors training documents and SOP telling them an important part of their role is to engage with customers to enhance their experience and to demonstrate jumps, BUT if they are doing that, they cannot be constantly scanning their supervision zone and fulfilling their vital safety role. Ensure that breach of training guidance includes disciplinary warnings in your training documentation/policies and within your disciplinary policies.

THE INDUCTION SAFETY BRIEFING

These are frequently referred to in risk assessments as a mitigation measure, but the contents are never included in the risk assessment or in an attached document. They should be if you are relying on it. They are central to your risk mitigation. Check that any induction safety briefing is in fact relevant to the activity if the risk assessment for that activity relies upon it. Often a safety briefing is very general and additional briefing might be necessary for a specific activity.

SPEED AND PRESENTATION OF SAFETY VIDEO

- Have you watched your safety video and, taking into account the reading age of a child, checked that any typed messages on a screen can be viewed before the words disappear?
- Do background images cause a distraction, preventing a user properly reading the message?
- Can text be seen clearly or is it lost due to a background video?
- Avoid background images showing users on equipment demonstrating extreme manoeuvres by highly skilled individuals, they could tempt/encourage other users into trying those activities.

SAFETY RULES ON WAIVER FORMS

Risk assessments often refer to the fact a user will have "signed a waiver form which contains safety rules". However, we find those rules are often not in fact relevant to the activity. When referring to them in a risk assessment, ask how and why they are a reasonable mitigation measure. Make sure they are consistent with any rules for the management of an activity. (Remember Waiver Forms themselves do not protect you from liability if an injury/death was caused by your negligence, or failure to take reasonable care.)

Ensure the content of the; 1. Induction safety briefing, 2. The safety rules in the waiver 3. The warning signage and 4. Your supervisor training are all consistent. We frequently see inconsistencies.

AVOID GENERALISED TERMS

e.g. *"any incorrect behaviour will be stopped immediately"*. What is incorrect behaviour? How does a Supervisor know how to recognise incorrect behaviour? How will they be stopped? Have you got a user policy which sets this out clearly? Have you made it a contractual requirement that your employees follow this policy?

e.g. *"there will be close supervision by marshals"*. Unless you specify what the supervision ratio is and why, it's not an effective mitigation measure. Where do the supervisors stand? How many of them? When do they intervene? How often do they rotate? This should all be in a standard operating procedure.

CCTV

This frequently fails to cover the activity area where an incident occurred.

Walk around your venue, identify areas where accidents could occur on the periphery or in high-risk areas, put up a cone and then check the CCTV footage. Is the coverage adequate? Is the image too far away? Review all CCTV locations having established your supervision zones for each activity. Is the whole supervision zone visible on CCTV? Does it include the area where the supervisor is told to stand?

WITNESS STATEMENT PROBLEMS:

We often see witness statements which only deal with the injury and first aid, not how the incident occurred. This does not assist either future accident prevention or claims management.

The objective of a post-incident investigation is to establish how the accident occurred and whether you need to review your risk assessment and introduce new mitigation measures. You should have a standard operating procedure which identifies how you will manage an incident in terms of the casualty, supervision of users still in the area, and post incident investigation and learning.

Having prioritised the casualty and ensured there is adequate ongoing supervision of other users, the person tasked with incident investigation should:

- i. Always obtain witnesses' names, address and contact numbers and establish where they were standing at the time the incident occurred and their connection to the injured person.
- ii. Try and talk to people who are independent of the injured person's group.
- iii. Try and find people who had the best view of the incident.
- iv. Did the witness see the incident or only the aftermath? Or were they just told about it.
- v. Would they have had a good view from where they were standing?

- vi. Obtain photographs of the scene and equipment as soon as possible. The photographs should include all warning signs in the vicinity of the activity, and the equipment itself.
- vii. Always include a basic diagram of where the accident occurred and identify it by reference to other equipment in the area to avoid any doubt.
- viii. Undertake a check of the area immediately afterwards to identify whether there were any defects with the equipment itself or set up- e.g. spillages/poor lighting.
- ix. If there is a defect, take immediate action to remove the equipment/ block access to users.
- x. Immediately check with reception and record how many users were in the venue and on site at the time of the incident.
- xi. Identify the supervisor responsible for the accident supervision zone and the nearest other supervisors together with contact details, name, address phone, e-mail. Ask them to stay in touch after they leave employment.
- xii. Locate and preserve all the inspection and maintenance records for the equipment.
- xiii. Locate and preserve the manager & supervisors' roster, the first aid log and accident report book.
- xiv. Preserve all CCTV and double check it can be viewed before it is destroyed. Make sure the CCTV is of the correct area.
- xv. Watch the CCTV with the supervisor and obtain their observations on what occurred and why they supervised the area in the way they did.

SEEK EARLY SUPPORT

- Policyholders must ensure that Tower Insurance Brokers (as Mutual Managers of the FEC Mutual Ltd) is notified as soon as practicable of an occurrence or any circumstance that may result in a claim.

A report must be made using the FEC mutual's online Incident Form via the website: [FEC Mutual Limited](#)

- Policyholders must not voluntarily make a payment, assume any obligation, or incur any expense without the cover providers consent (they must not admit liability).
- Contact the FEC Mutual Managers team at Tower Insurance Brokers in the first instance.

TOWER INSURANCE BROKERS

Please do not hesitate to contact Tower Insurance Brokers if you require further guidance.

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