



Claims defensibility

Working together.
Prevention is better than cure.



Importance of
Risk management

Accident
prevention

How risks can
be managed

Accident
investigation

Accident
documentation

Fraud
prevention

Summary



As an employer, you'll be aware that you have certain responsibilities to both your employees, and also to those non-employees who your organisation may come into contact with. This booklet aims to give some insight in terms of how best to manage this risk:

To try and prevent accidents occurring in the first place.

To give you the best chance of defending any claim that might be brought against you.

Whilst it is not always possible to defend all claims, you can take steps to be in the best position should a claim be made.





The importance of risk management

Sharna Thomson, Head of Customer, UK Claims and
Helen Aston, Head of Workforce Strategies, Zurich Resilience
Solutions; provide their views on good risk management and
working collaboratively to improve your risk.

Watch the video





Approximately 80% of risks faced by organisations are uninsurable.

Uninsurable costs include:

- Prosecution fines and legal costs associated with non-compliance with statutory requirements.
- Criminal prosecutions by the HSE in 22/23 there were 216 criminal prosecutions with a 94% conviction rate.
- Damage to an organisation's reputation following a major incident or accident.
- Loss of key staff together with retraining and further recruitment costs.
- Resource costs-Managers/Directors liaising with police, regulatory authorities, insurers and lawyers.
- Stress and low morale of staff involved in an incident.

In addition, pressures to provide a valuable service within tight budgetary constraints can also be intensified by:

- Increased public awareness of rights to compensation.
- Claims companies actively encouraging employees and members of the public to claim for compensation.
- Increased insurance premiums as a result of a bad claims defensibility record.



60,645

Non fatal injuries to employees reported by employers in 2022/23



135

Fatal injuries in work related accidents in 2022/23



£20.7 billion

Annual costs of workplace injury and new cases of work-related ill health in 2021/22, excluding long latency illness such as cancer

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Accident prevention





What is risk management and why is it needed?

Risk management can be described as the process of identifying significant risks to the achievement of an organisation's objectives, evaluating their potential consequences and determining and implementing the most effective way of controlling and monitoring those risks.

By practising good risk management, an organisation can reduce the amount of time and money it spends on handling losses associated with accidents, incidents and personal injuries. To achieve this benefit, your organisation will need to put measures in place to prevent incidents.

Legal considerations

Where do your legal obligations come from?



Duty of care – we must not endanger any other person by our acts or omissions (or in other words by what we do or don't do) and must take reasonable care not to cause foreseeable injury or loss to them – this would apply to, for instance, employees, contractors, members of the public.



Negligence – where that duty of care is not fulfilled, a claim for negligence can be made.



Statutory compliance – laws such as Occupiers Liability Act and Health and Safety at Work etc Act.

Click on the following links for more information

[Risk Assessment](#)



[Manual Handling](#)



[COSHH](#)



[Safe Work Equipment](#)



[Work at Height](#)



[Slips, trips and falls](#)



[Workplace Transport](#)





Risk management in practice

Organisations face a wide range of risks relating to the potential hazards which could cause personal injury or death. These risks can affect everyone who is employed by, who volunteers for or comes into contact with the work of the organisation, e.g. employees, volunteers, members of the public, contractors and trespassers.

To be effective, risk management requires support and commitment from all levels of an organisation. The Health & Safety Executive (HSE) suggests a **Plan, Do, Check, Act approach**, which integrates risk management into general good management systems rather than seeing it as a standalone system. If you get risk management right you won't have to cancel or curtail activities just because they involve elements of risk.

For more information 



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A background image showing a man and a woman in a professional setting, looking at a laptop screen. The man is pointing at the screen. A large dark red circle is overlaid on the image, containing the text 'How risks can be managed'.

How risks can be managed



How can risks be managed



Steps to take

Identify, describe and calculate the risks – risk assessment.

Implement and monitor inspection regimes.

Control of contracts and contractors.



Tips for good risk management

Be proactive and risk assess all premises, assets and activities. It is key that your risk assessments must be suitable and sufficient.

Put control measures in place to prevent incidents.

Assess the costs your organisation would have to meet for handling an incident that isn't covered by insurance. Then try to predict how these could affect your budgets.

Take into account the potential benefits of risk management e.g. cost savings, better use of resources, new opportunities.



Zurich Risk Advisor App

The Zurich Risk advisor app is free to download and can help make risk assessment easier to understand and provide insight to help with your own risk assessment.

[Click here for further detail](#) 

Claims defensibility: working together, prevention is better than cure.

We offer the following services to organisations to help them manage their risks and, if needed, to support with claims defensibility:



Liability – health and safety consultancy; training courses including accident investigation, inspection regimes, risk assessment and claims defensibility.



Property – asset management consultancy; fire protection reviews; hot works management; escape of water assessments, security reviews and analysis, damp and mould risk mitigation.



Cyber resilience – health checks; leadership awareness training; penetration testing; incident response exercises.



Risk Clarity – access to a powerful version of Riskconnect's risk management information system, enterprise risk management, and health and safety solutions.



Organisational resilience & enterprise risk – business continuity consultancy; risk register development, workshops and reviews, project risk support.



Motor – fleet management consultancy; telematics solutions; driver safety, electric vehicle familiarisation and in vehicle training.



Wellbeing – strategic health check, psychosocial risk management via a digital tool, risk snapshot.



Climate and natural hazard – risk assessments, climate modelling, onsite evaluations and climate risk response planning support.

Zurich Resilience

Solutions combines risk advisory services and insights with the latest technology and tools – **leveraging data, analytics and third-party collaborations.**

We have a team of over 140 colleagues in the UK ready to support your clients, with access to over 750 consultants globally.

Our subject matter experts are highly qualified, from a wide range of industries and sectors and aligned to professional institutions.

[Click for more information](#)



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Accident investigation





Should an accident occur

Despite your best efforts, accidents will occur from time to time. How you react in the immediate aftermath can significantly impact your ability to successfully defend any subsequent claim.



The first steps

Ensure the injured party has received the appropriate treatment.

Secure the scene and take charge of the area.

Make sure the area is safe and assess any remaining hazards.

The right people need to be involved from the outset.

Decide who else needs to be notified, management, unions, family, HSE.



Investigation

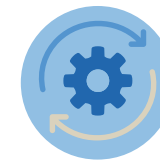
Obtain supporting documentation – **see page 13**.

Establish the facts.

Collate the evidence.

Our Senior Claims Inspector **Ian Allcock** shares his views of best practice for claims investigation.

Watch the video



Rehabilitation

Our In-house Rehabilitation Case Managers are made up of a team of qualified healthcare professionals.

They provide a service to employers when their employees sustain injuries in the workplace or have been involved in an incident related to their work.

Following any workplace accident, always consider whether a referral to Zurich's Rehabilitation team is appropriate.

For more information, please visit our website



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Accident documentation





Supporting documentation

A claim can be submitted up to three years after an incident, so you will need to retain all relevant documentation alongside the accident investigation. The documentation you will need to disclose in order to defend a claim will vary dependant on the type of incident. As a standard you are usually required to disclose from the following lists:

Employer Liability Checklist

- ✓ Accident report/accident record/accident book
- ✓ Riddor Report
- ✓ Accident investigation
- ✓ Photos
- ✓ Witness statements
- ✓ Communications with the DWP or HSE
- ✓ 13 weeks pre and all post accident earnings until return to normal duties
- ✓ Pre and Post accident risk assesments
- ✓ Safe systems of work documents
- ✓ Training records (and if available training course material)

Public Liability Checklist

- ✓ Accident book entry (if applicable)
- ✓ Third Part Accident Report Form (if applicable)
- ✓ Details of the injury/property damage
- ✓ Any information that would assist in investigating and assessing the claim e.g.
 - Details of the use of specialist equipment
 - Any relevant plans, specific directions, protocols or contracts
 - The involvement of any contractors or sub-contractors
 - Investigation report

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Fraud prevention





Our counter fraud strategy

We have a zero tolerance fraud philosophy which means that:

- We will not pay fraudulent claims-where we hold sufficient evidence we will take appropriate action
- We are not afraid to defend strong cases in the civil courts
- We will look to take punitive action against fraudsters to include recoveries of money and criminal prosecution
- At a strategic level we are investing in the right people, tools and technology to maximise detection.

Zurich defines fraud as:

‘The deliberate and dishonest withholding or misrepresentation of material information to gain financial advantage’



To find out more about the evolving landscape in fraud, please see our webinar:

[Webinar: Tackling Fraud in an Evolving Landscape - YouTube](#)





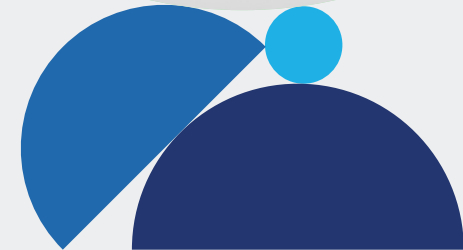
Our Head of Complex Liability & Strategic Litigation - UK Claims, Michael White, gives an overview of the importance of good risk management and the impact on claims defensibility.

Effective risk management lies at the heart of preventing accidents and incidents and offers far greater scope for a successful defence against any claim subsequently made.

You have a non-delegable duty of care to employees and a general duty of care to others who may be affected by your operations. Demonstrate that these duties have been discharged by showing effective loss prevention and risk management practices, documenting the decisions and activity taken on the back of risk assessments, ensuring regular review and the implementation of any changes noted as necessary. Don't forget about arrangements with external suppliers and ensure that contracts are robustly managed.

As many risks that organisations face are not insured, it is ideal to have a culture and practice within an organisation that limits the scope for unwanted occurrences. Accidents can still happen, and what occurs in the aftermath of an event is vitally important. Key documents prepared following an incident have significant weight attached to them. Prepare these as soon as possible, but thoroughly. The importance of good record keeping cannot be overstated.

Although good risk management, robust investigation and effective documentary management processes cannot eliminate the possibility of incidents happening nor guarantee a successful defence of all claims following them, having a positive culture of health and safety, acting on concerns, making changes quickly and being able to explain the reasons for policies and procedures will place you in a far better position to deal with the consequences of one.





Summary

There's no guarantee that any individual claim can be defended successfully, since each case is considered on its own merits and will ultimately be decided by the court if it cannot be settled between the parties/their representatives.

However, you can significantly improve your organisation's ability to defend personal injury claims by reducing the scope to be found in breach of your duty to employees and to others by demonstrating that health and safety matters are taken very seriously. In particular that they're supported by relevant documentation, adequate resources, appropriate training and that you have an effective safety management regime, all of which is kept up to date.

More importantly, for wider benefit, effective risk management can also help lead to a safer working environment and a reduced number of accidents.



For any additional information
please contact your usual
Zurich representative.

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