Family Day Care Australia

PUBLIC LIABILITY CLAIMS PROCEDURE

Public Liability Claims Procedure

If a third party makes a claim against you, they should lodge their complaint in writing, setting out the circumstances and providing details of the claim. When that information is received the claim will then be investigated on your behalf. **At no stage should you admit liability or fault** - this is for the insurer of the Public Liability policy to determine. Do not attempt to negotiate with the person involved or with their legal representatives.

In the event of serious injury or damage, immediately contact Family Day Care Australia for advice on tel: 1800 658 699.

All educators are supplied with claims reporting information and contact details on incident report forms after purchasing the public liability product. Educators are required to complete an incident report form for all injuries to children in care other than the most minor of incidents, these should also be recorded in an incident book or diary, so the educator has a backup record.

Insurers may wish to investigate serious incidents in order to assess whether there is a potential liability owed by an educator or coordination unit. Claimants may also appoint legal advisers who from time to time carry out investigations into claims or incidents. It is very important that coordination unit and educators identify who is asking questions and conducting investigations. Coordination unit staff and educators should always be very careful to establish the identity of investigators and only talk with an investigator once they have satisfied themselves of the identity of the investigator and who they are representing.

Coordination unit staff or educators are not obliged to talk with investigators acting for the claimant and should never speak with an investigator unless they have received confirmation from their insurer that it is alright to speak with them. Under no circumstances should coordination unit staff or educators ever make a statement to an investigator that constitutes an admission of liability as this may prejudice the interests of the insurer and cause the claim to be denied.

Injuries in family day care occur from time to time and need to be effectively reported for insurance purposes. The following Public Liability Insurance claims reporting protocol has been developed in consultation with underwriters at Lloyd's of London to help Services and Educators understand their reporting obligations under FDCA's public liability policy.

There are 3 categories of incidents: Category A, Category B and Category C.

Category A incidents are:

- Death
- Spinal injury
- Extensive scarring
- Burns of any kind
- Convulsion/seizure/fit, where an ambulance is called and admission to hospital is required
- Any other incident that requires admission to hospital
- Loss of consciousness/ concussion
- Fracture of a major limb or serious facial injury
- Where a parent expresses anger or threatens legal action against the educator or withdraws the child from care immediately after the incident

Reporting Procedure
A **Category A** incident must be reported:

- to the approved provider (Coordination Unit) In Accordance with the approved providers incident, injury, trauma and illness policies and procedures required under the Education and Care Services National regulations.
- to the FDCA office within 48 hours of the incident occurring (1800 658 699).

The incident report form must be completed and received at the FDCA office no later than 7 days after the incident.

Category B incidents are:

- Minor fractures of fingers, toes etc.
- Injuries to teeth
- Lacerations which only require regular first aid treatment
- Third party medical treatment is required but none of the Category A injuries are present.
- Where the parent is distraught and expresses any feeling of blame towards the educator
- Convulsion/seizure/fit where third-party medical assistance is required

Reporting Procedure
A **Category B** incident must be reported:

- to the approved provider (coordination unit) In Accordance with the approved providers incident, injury, trauma and illness policies and procedures required under the Education and Care Services National regulations.

The incident report form must be completed and received at the FDCA office no later than 30 days after the incident.

Category C incidents are all other minor injuries and illnesses.

Reporting Procedure
A **Category C** incident must be reported to:

- the coordination unit In accordance with the approved providers incident, injury trauma and illness policies and procedures required under the Education and Care Services National regulations

However the educator is not required to send the incident report form to the FDCA office but should keep a copy on their files in case the incident escalates.

How to report an incident?

You can either complete FDCA's incident report form which is available on our website at www.fdca.com.au OR you can complete an online incident report from which is located in the Insurance section of your FDCA Member Zone. Remember that there is no harm in reporting an incident to FDCA. If you are unsure whether or not an incident needs to be reported, it is always best to play it safe and report the incident.

Hard copy incident report forms, once completed, can be emailed to memberservices@fdca.com.au.