

# PEOPLE PROTECTION

## Incidents that could develop into Public Liability claims - how should they be handled?

Documentation of information is extremely important. All incidents resulting in injury or property damage should be carefully documented in the churches incident/accident report book. If you use accident/incident investigation forms these should be completed as soon as possible after the event.

**See sample Incident/ Hazard Report Form, Attachment 20.**

## Public Liability claims received - what action should be taken?

- **DO NOT ADMIT LIABILITY.**
- Acknowledge receipt of the claim and explain that it has been forwarded to your insurer for their attention.
- Immediately notify Australian Christian Services and provide them with copies of any documents you may have relating to the incident including any completed internal report or investigation forms.
- As other information, letters or accounts are received they must be promptly forwarded to **Australian Christian Services** for their attention.

**N.B.** Don't wait until a writ lands on your desk before you let **ACS** know that the incident has occurred. **Failure to advise the insurer may cause major difficulties for you and the insurance company, which could lead to an escalation in claim costs and subsequently much higher insurance premiums.**

## Should offers be made to pay for treatment or other costs that form part of a claim?

Whilst early action, and offers to reimburse costs, may result in minimising the final cost of any claim it may also lead to greater expectations on the part of the claimant and imply an admission of liability. It is important to be helpful and empathetic but **no settlement offers or admission of liability must be made on behalf of the church** to any potential claimant without the agreement of your insurer or **Australian Christian Services**.

## 27 MINISTRY TEAM

### Can we insure against liability caused by the negligence of our ministry staff, and if so what type of insurance is it?

Yes. The church and the ministry team are protected by 'Professional Indemnity' insurance.



### Professional Indemnity insurance - what is it?

The Professional Indemnity policy (a claims made policy) covers the insured (the church) against any alleged act, error, omission or misconduct. In addition the policy pays the cost of any legal expenses incurred in relation to a potential claim provided they are incurred with the prior written consent of the insurer.

To establish a claim under the policy it is necessary for it to be shown that the ministry team, or a member of it has behaved in a **negligent** manner, which has in turn resulted in a loss to the person or organisation seeking to claim against the church.

### Professional Indemnity insurance - what does it cover?

Professional Indemnity insurance can include coverage of the following:

- Breach of Duty - paid employees or volunteers.
- Wrongful advice – counselling, pastoral care and teaching.
- Libel & slander (defamation)
- Infringement of copyright, designs and trademarks
- The cost of coronial inquiries and investigations by disciplinary bodies.



The church's coverage is worldwide and jurisdiction is in the law courts of Australia and New Zealand.

### What should we do if we become aware of an incident that may give rise to a claim under this policy?

Report all claims, or potential claims, **immediately** to **Australian Christian Services** on **1800 646 777** or **03 9837 2244**

### Specific risks to your ministry team - what are they?

In the current environment, where people are encouraged to take legal action for all manner of reasons, there are many times when ministry teams and churches are at risk of being sued. Some of the more common areas that may be considered a risk include Prayer Lines, Leadership Behaviour, Pastoral Care Activities, Group Leadership, Platform Behaviour and Counselling Others. Below are some thoughts on how to minimise those risks.

#### Prayer Lines

Prayer lines can be one of the most hazardous places to be in a church service. Many people have fallen backwards in prayer lines and suffered horrendous injuries such as a fractured skull, brain damage, broken arms, broken legs, torn tendons, back injuries, the list goes on and on....many of those injured have subsequently sued the church for damages...and won their case.

Because the incidence of people falling and being injured in prayer lines is prevalent, insurers have considered removing this cover entirely from Public Liability insurance policies. Injuries arising from prayer lines have almost become 'inevitable' rather than 'fortuitous' and insurers will not provide cover for inevitable events.

To minimise the problem of prayer line injuries the following procedures should be followed:

- **Ask people who respond to an altar call to kneel rather than stand, or sit on the front row of seats.** This is especially relevant if there are many people responding who could be standing for a considerable time.
- **ALWAYS have another person standing behind to act as 'catcher'** when anyone is standing for prayer, in case they fall. The catcher should stay with the person they are

'catching' until that person has left the prayer area. **Note: Catchers should be trained in the technique of lowering people gently to the floor. Catchers can injure their back very easily if the correct technique is not used.**

- **Use 'like for like' catchers.** ie. If the person being prayed for is a large adult use another large adult to act as catcher, not a small elderly lady! There have been occasions where the catcher is the one injured, not those being prayed for.
- **Pray for people in an orderly manner**, not rushing from one end of the prayer line to the other. Make sure that those acting as catchers are in place before you commence praying.
- **Ask people to sit or kneel again once they have been prayed for.** Some people become very emotional and physically disoriented after prayer, and we must do all in our power to make sure they are safe.

#### Leadership Behaviour

Leadership behaviour, or people's perception of that behaviour, can present a risk to the church. It is important that the following issues are considered when looking at this area.

- Responsibility for the appointment of ALL leaders rests with the relevant ministry team leader. No one else should be allowed to appoint a leader.
- Each ministry must have a profile of the personal qualities, spiritual qualities and other capabilities required for leaders in that ministry to ensure they are suitable for the role they are to fill. (Similar to a 'Person Specification' in the business world.)
- Guidelines explaining what is appropriate behaviour for leaders in each ministry need to be established. These should be issued and explained to all leaders and a record kept of those actions.
- It is important to remember that leaders are role models and that they must set a good example **at all times**, not only when performing their work for the ministry team.
- Setting a good example for others may often mean being willing to give up rights we have at law. Demonstrating Christian behaviour,