

CHAPTER 26

IMPLEMENTING RISK MANAGEMENT – TRACKING, TRENDING, MONITORING AND PROJECTION

This chapter outlines the techniques which can be used in controlling risk management activities. It covers:

- tracking
- trending
- monitoring
- projection

Tracking

Tracking is the recording of data, and assimilation of information, enabling patterns to be observed. There are two main methods of tracking: through manual systems or through computerised systems, used to establish the frequency of one or more criteria.

The foundation of a good tracking system is a comprehensive incident reporting system and this has been covered in the last chapter. Comprehensive systems are no use, however, if the information gained is not used; for information to be used, it must be recorded in a way which allows it to be accessed easily and manipulated against different criteria.

Although it is possible to have such a system operated manually, it is much more flexible if computerised. This can be done relatively inexpensively on a personal computer with an appropriate software package.

Trending

Trending is the comparison of information produced in tracking reports over a period of time.

When a normal pattern has been established, a rise in incidents in a given area, or at a particular time of day should become apparent, and can be investigated.

Identifying trends and reporting back to relevant departments alerts them to the fact that there is an area which is worth analysing and exploring in more detail and which may result in a reduction of problems.

Monitoring

Monitoring of any given criteria recorded on incident forms gives a useful early warning system of a downturn in standards and an increase in incidents which may result in a legal claim.

The raising of staff awareness which may be generated by the introduction of a new reporting system, and training in its use, is likely to result in an increase in the number of reported

incidents. Managers should be wary of inferring that this indicates a downturn in standards; it is likely that the level of incidents in the past has been underestimated due to a failure to report untoward incidents.

As monitoring continues and information is fed back to departments, they are able to see the effect of risk control measures introduced.

Projection

The ability to project trends and costs is particularly important for financial planning. Once norms have been established, it becomes possible to anticipate the number of incidents of a given type which are likely to occur in following years.

These projections can take into account increased volume of work, improved equipment and so on, and can then be measured against actual results. The reasons for differences can be assessed and action taken to reduce risk. They are also of value when considering the level of insurance deductible to be assumed by trusts, giving a guide to previous loss patterns.

■ **Action points**

- **steps should be taken to implement a tracking, trending and monitoring system for untoward incidents, and reports produced regularly.**

CHAPTER 27

IMPLEMENTING RISK MANAGEMENT – INVESTIGATION OF UNTOWARD INCIDENTS AND CLAIMS MANAGEMENT

This chapter deals with the reporting and investigation of untoward incidents and the management of claims.

An essential element of a risk management system is a procedure for identifying and reporting incidents and taking the action necessary to prevent a recurrence. Any system should be able to identify trends or patterns, pointing to areas for further investigation.

Systems exist in all health care providers for the reporting of accidents to patients or clients and staff and the same form is usually meant to cover "untoward incidents". There is seldom any definition of what constitutes an untoward incident, and there is often no mechanism for reporting damage to property with the exception of fire damage.

The chapter is divided into six main sections:

- definition of an incident
- reporting incidents
- investigating incidents
- financial implications
- risk management implications
- claims management

Definition of an incident

An incident for the purposes of risk management is:

any event which has given or may give rise to actual or possible personal injury, to patient dissatisfaction or to property loss or damage

This definition covers all areas including patient or client injury, fire, theft, assault and employee accident.

Reporting incidents

As stated in chapter 25, busy staff often resent the additional workload imposed by reporting incidents, some of which may appear to be trivial. It is important that all staff realise that the purpose of reporting an incident is not to apportion blame to any individual or group of people but to identify potential problems or, where a problem has already arisen, to expedite a remedy. The culture of the organisation must not allow staff to feel that they are "telling tales" about their colleagues and the procedure must not be seen as punitive. Many staff will

quote occasions where the defective electricity socket, the missing light bulb or the hole in the carpet has been reported time after time, without any action being taken. So it is important that remedial action is taken promptly to ensure that the reporting system is not discredited. Conversely, the taking of action demonstrates a positive approach to the management of risk and helps to change the culture of the organisation.

■ **Action points:**

- **there should be a standardised incident reporting system**
- **staff who may be involved in completing incident report forms should receive appropriate training**
- **a clear message should be given to staff that the reporting of untoward incidents will not result in punitive action against that staff member**

Investigating incidents

When the designated staff member receives incident forms and scans them, he or she will decide what further information is needed and what action needs to be taken. Witness reports may be needed, photographs may need to be taken, defective equipment may need to be removed from use and steps taken to prevent a recurrence. It is important that any allegedly defective equipment or other item is preserved, together with its maintenance records, evidence of purchase, packaging and batch numbers for smaller items, since it may have to be produced in subsequent actions, either to prove that it was not defective or to engage another party, such as the supplier, in the action. Equipment which may deteriorate with age while in storage (such as rubber bath mats implicated in a fall or back injury) should be photographed.

There should be clearly agreed arrangements for prompt photographic support to be provided to the member of staff investigating incidents. This may be through a Medical Photography Department, or through the provision of a camera to the Risk Management Team.

Managers should be sympathetic to the fact that many staff who are asked to provide witness statements will never have written such a statement before; such staff will be very worried about putting comments in writing and may, in some cases, have genuine difficulties in writing without their colleagues and managers realising the fact. Witnesses should be offered help and support by the Risk Management Team in preparing their statements, but they should confine themselves to what they actually saw, rather than speculating on what happened. It is far better simply to state the facts, for example "Mrs J was found on the floor", unless the witness actually saw her fall.

In addition to individual witness statements, it is useful to record the names of all staff on duty at the time of the incident, perhaps in the form of the staff rota. It may also be useful to record where staff were positioned when the incident took place. It can sometimes be several years before a claim is made and it is often difficult to track which staff were involved.

■ Action points:

- the member of staff receiving incident reports should take prompt and thorough action to ensure that steps are taken to provide or preserve evidence which may be needed in any future claim
- any allegedly defective equipment or other item should be withdrawn from use immediately and preserved as far as practicable

Financial implications

An untoward incident results in many obvious, and hidden, costs: paying claims, replacing staff temporarily or permanently and replacing buildings or equipment. There can also be further consequential losses, for example the loss of a kitchen due to fire requires finance for the rebuilding, for the provision of alternative catering services during the rebuilding work and, if the kitchen has an income generation function, the loss of income and business. There are also costs to the organisation in the time taken to investigate incidents, and the effect of any adverse publicity.

Risk management does involve expenditure, but this can be offset by reduced losses and payments for damages, improved staff morale, less working days lost through staff injury and improvements in the quality of care given to patients or clients.

Risk management implications

Thorough investigation of an incident should reveal a number of elements which should be considered for further action, outside of dealing with the consequences of the specific incident:

- was the incident preventable?
- what measures are in place to prevent a recurrence?
- what other measures are recommended to prevent a recurrence?

The member of staff designated to act on incident forms should take responsibility for investigating these matters, with the appropriate departments, and reporting to senior management on the actions which have been or need to be taken.

The views of independent professional observers, who may be involved in the event of litigation, can give useful pointers to ways in which an organisation can minimise risk in future. Managers should read experts' reports and transcripts of any judgements given against their organisation in order to be more fully informed about the presence of risk.

In the past, many remedial actions have been shelved because they have financial implications and because other projects are seen to have a higher priority. But as we have seen earlier in this manual, expenditure on reducing risk is often money well spent.

In the event of a claim being pursued, evidence of a similar occurrence or prior knowledge of a hazard without any remedial action having been taken will immediately place the health

care provider at a disadvantage when deciding whether to defend the case or negotiate a settlement.

■ Action points

- the cause of incidents should be thoroughly investigated and any measures which could prevent a recurrence should be defined
- managers should examine reports produced by experts in the course of litigation, together with the transcript of any judgement made against their organisation
- if a decision is reached that no further action is to be taken, this should be explicitly documented, giving reasons for that decision.

Claims management

This section includes advice on :

- designating a claims manager
- involving legal and insurance professionals
- administration of documents

There is much evidence that the British are becoming more litigation-minded and there are now a number of firms of solicitors who specialise only in personal injury claims. As a result, health care providers should also adopt a professional approach to claims management which will lead to speedy conclusion of personal injury cases and to minimising the cost to the provider in both compensation and legal fees.

Damages awarded in personal injury claims are now considerably higher than used to be the case, and judges are increasingly awarding structured settlements, which help to safeguard the interests of the claimant rather than his associates.

The emphasis in this section is on health providers, but there is merit in named individuals being designated by purchasing health authorities to take an interest in these matters.

Health circular HC(89)34 stated that one identified individual with an appropriate level of understanding of legal processes, who is responsible for liaison with the legal professionals, insurance companies and the like should be designated as the **claims manager** for each health provider. This should be a named individual employed by the health care provider within its line management framework who is the named point of contact with these professionals, in order to maintain control of the process and to avoid conflicting messages.

There are a variety of ways of **involving specialists** with the knowledge required to take professional action on claims: providers may choose to employ a suitably qualified individual direct (either on their own or in association with other providers), to contract with a company which specialises in claims management, to retain a firm of solicitors or to rely on a service provided by other agencies, for example former regional health authority legal departments.

Whichever option is adopted, the claims manager should retain control of the process. He or she should take care to select an appropriate legal specialist.

It is particularly important that the claims manager co-ordinates access by the legal/insurance professionals to the staff of the health care provider. Uncontrolled access will lead to the claims manager not being aware of the exact progress of a case at a given time. He will also need to ensure that the legal professionals give regular updates on the progress of cases; it is not unknown for a hospital to discover almost by chance that a sensitive case is going to court in a few days time after several years of apparent inactivity, although relevant staff have been asked to attend as witnesses! The staff will assume that the managers of the hospital or other provider know the situation direct from the solicitors.

The claims manager should ensure that all staff involved in a case are regularly updated on its progress.

It should also be the role of the claims manager to **administer the documents** for claims. The master files should not be removed from the claims manager's office. Each claim should be referenced and all documents relating to it similarly referenced. There should be a record sheet at the beginning of the file which is regularly updated with brief details of correspondence, telephone calls, movement of documents such as case notes etc; and a summary sheet should be prepared at regular intervals giving brief details of the claim and its progress so that there is snapshot of the current situation. The chief executive and the Board should receive regular reports on the progress of claims and the summary sheets can be used for that purpose, anonymously if appropriate.

■ Action points

- one individual should be designated as the claims manager, with responsibility for co-ordinating contact between the provider unit and the legal professionals
- the claims manager should ensure that legal professionals provide regular updates on progress for each claim
- claims documentation should be controlled by the claims manager
- the chief executive and the Board should receive regular reports on the progress of claims

Settlement

The claims manager should recommend that cases be settled where there is advantage in so doing. This may be in order to minimise the legal costs involved in a protracted defence, or following advice on liability and the defensibility or otherwise of the claim. The chief executive should ensure that there is a clear procedure for decision making on the settlement of claims. It must be clear who has the authority to decide on settlement and quantum and the limits to that authority.

It is often difficult for staff who have been involved in a claim to accept that settlement out of court is the most sensible course of action. They may see this as the hospital or Authority admitting that the staff failed or were otherwise "guilty". The claims manager should ensure that staff receive a clear explanation of the reasons for settling and, where appropriate, an explicit assurance that this does not mean that they have done anything wrong. In some circumstances, it may be appropriate to offer counselling.

■ **Action points**

- **there should be clear guidelines on the authority to agree settlements of claims**
- **staff should receive an explanation of the reasons for settling a claim out of court, and offered counselling where appropriate**