



Incident and Accident Reports Are Necessary Operational Tools

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Ontario's Occupational Health and Safety Act (OHSA) governed by the Ministry of Labour (MOL) is specific to the obligations of all workplace parties when it comes to reporting workplace incidents and accidents. Further complicating these situations are workplace accidents that involve non-workers.

Incidents

Incidents are best described as “an unplanned event that results in, or has potential to result in, property damage, injury, illness, death or other loss”. Reporting these types of events is a worker’s legal obligation under the OHSA. This written information allows employers to assess and improve worker training, update policy and procedures, improve personal protective equipment, make building repairs/improvements, or warn others of the potential for injury.

Accidents

An accident is often described as an event that will require some level of medical attention. These events will have a series of internal and external reports that must be completed – often in a set specific timeframe. However, the term "accident" has been under scrutiny

over the past few years among safety professionals, particularly since the Workplace Safety & Insurance Board came out with the “Road to Zero” strategy. The rationale is that if every incident investigation drills down far enough to determine the root cause, it is evident that "every" incident is avoidable. In other words, if we can find the reason an incident occurred, then it could have been prevented – therefore not “accidental”.

At the 2013 Ontario Turfgrass Symposium, Frank Cowan Co. Risk Analyst, Jessica Jaremchuk remarked that “in court, it is not what has happened and how you state your action, but being able to prove that your operation had done everything reasonable within their power to avoid the event that occurred”. This statement rings true in both workplace investigations and civil litigation. Incidents that are recorded and acted upon are a positive defense tool when operational competency is called into question. Liz Sisolak, from the Public Services Health & Safety Association (PSHSA) reminded the workshop participants of “the legal duty of workers under the OHSA to report both hazards and incidents so that they can be prevented”.

A consistent message was jointly presented by the Frank Cowan Co., PSHSA and Ontario Recreation Facilities Association representatives during this session on the importance of regularly reviewing and updating current policies and procedures that guide worker incident and accident reporting obligations for workers and non-workers. When establishing procedures, clearly define who is responsible for collecting information and how information will be collected and filed/logged. It is important to include these same details as part of all new worker orientations.

There was also further emphasis of the Internal Responsibility System, or IRS as described in the OHSA. This System places accountability on all workplace parties to know and comply with all legislation and to be active in making all workplaces safe.





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Internal Responsibility Systems (IRS)

The Internal Responsibility System is one in which every individual is responsible for health and safety. It can be thought of as your organizational chart, with a clear set of statements about responsibility and authority for health and safety listed for each person – no exceptions. Simply put, the IRS means everyone in the workplace has a role to play and a duty to actively ensure workers are safe. Every worker who sees a health and safety problem such as a hazard in the workplace has a duty to report the situation to management. Once a hazard has been identified, the employer and supervisor have a duty to look at the problem and eliminate any hazard that could injure workers.

When are accidents involving members of the general public to be reported to the MOL?

This ongoing legal decision was recently clarified when the Court of Appeal released its decision in the Blue Mountain v. Ontario Ministry of Labour case. The Ontario Labour Relations Board and a lower court held previously that the OHSA required employers to report any “critical injury” or fatality to any “person” at a workplace; including whenever a non-worker died or was critically injured at or near a place where a worker is working, has passed through, or may at some other time work, regardless of the cause of the incident. The Court of Appeal held that this literal interpretation was unreasonable.

Remember that a phone call to the MOL is free and should always be made if ever in doubt; not calling can be very expensive. If you want to acid test how well your current program is working – pull the “incident file” and if there are no reports... it is most likely broken! •

Editor's Note: There are fourteen jurisdictions in Canada: one federal, ten provincial and three territorial each having its own occupational health and safety legislation. Visit www.ccohs.ca/oshanswers/legisl/intro.html for information about OH&S legislation in your region.

Resources

ORFA Guidelines for Reporting Critical Injuries In A Recreation Workplace – Involving Non-Workers
http://orfa.com/library/guide_bp/

Ontario Ministry of Labour <http://www.labour.gov.on.ca/english/>

Workplace Safety & Insurance Board <http://www.wsib.on.ca>

Health and Safety Ontario <http://www.healthandsafetyontario.ca/HSO/Home.aspx>

Frank Cowan Company – Risk Management Centre of Excellence <http://excellence.frankcowan.com/>

Courts of Ontario: Blue Mountain Resorts Limited Applicant (Appellant) and Richard Den Bok, The Ministry of Labour and The Ontario Labour Relations Board <http://www.ontariocourts.ca/decisions/2013/2013ONCA0075.htm>

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