

Appendix 14

State Claims Agency

Personal injuries and third party property damage risks and claims (State Claims Agency)

(a) State indemnity for personal injury and third party property damage is set out in the National Treasury Management Agency (Amendment) Act, 2000 where the management of personal injury and third party property damage risks and claims associated with Community and Comprehensive Schools, was delegated to the National Treasury Management Agency (NTMA). When performing these functions, the NTMA is known as the State Claims Agency (SCA).

(b) State indemnity extends to the Boards of Management of Community and Comprehensive Schools, their servants and/or agents in respect of any claims for personal injury and/or third-party property damage, arising from the negligence of Community and Comprehensive Schools, their servants and/or agents. This indemnity extends to cover only the negligence of the Community and Comprehensive Schools, their servants and/or agents, and does not extend to indemnify any third party, its servants and/or agents. Servants and/or agents are persons who perform tasks on behalf of Community and Comprehensive Schools and includes; all staff members, ancillary staff, volunteers etc.

Therefore, Community and Comprehensive Schools do not purchase insurance for personal injury and third party property damage and as such do not have to bear associated premium costs.

Indemnity works on a pay as you go basis.

(c) All costs associated with personal injury and third party property damage claims will be paid directly from the Department of Education and Skills budget through a reimbursement system operated by the SCA.

(d) The key principles of State indemnity liabilities as delegated to the SCA are as follows:

- i.** The limit of indemnity is unlimited in amount.
- ii.** State indemnity only applies in instances where a Community and Comprehensive School are negligent.
- iii.** State indemnity is not like conventional insurance; it is enshrined in legislation and therefore will not have a policy number or an expiry date and there is no requirement to name indemnified parties.
- iv.** A State indemnity confirmation statement is issued as proof of State indemnity (personal injury and third party property damage risks) in lieu of an insurance policy.

(e) Where the school, its servants and/or agents, are negligent, State indemnity provides protection for possible damage or loss associated with the following:

i) Injury/loss to school staff (teaching and non-teaching): This refers to bodily injury sustained (which includes death, illness, injury or disease) to an employee of your

school.

Employees who sustain such a personal injury as a result of the negligence of your school may make a claim for compensation. This type of event and associated losses/damage would typically be covered under a conventional insurer's employer's liability insurance policy.

ii. Injury/loss to a member of the public: This refers to bodily injury sustained (which includes death, illness, injury or disease) to a member of the public.

Members of the public include visitors, students, parents, contractors etc. Members of the public who sustain a personal injury as a result of the negligence of your school may make a claim for compensation. This type of event and associated losses/damage would typically be covered under a conventional public liability insurance policy.

iii. Third Party Property Damage Loss: This refers to physical damage sustained to the property of a third party or loss of a third parties material property. Property includes buildings, contents, vehicles and personal property. Third parties who suffer damage or loss of their property as a result of the negligence of your school may make a claim for compensation. This type of event and associated losses/damage would typically be covered by a conventional insurer as part of a public liability policy or property policy.

Confirmation of Indemnity/Insurance cover for Personal Injury and Third Party Property Damage liabilities

(f) Occasionally Community and Comprehensive Schools may be required to provide confirmation of 'insurance cover'. State Indemnity Confirmation Statements for personal injury and third party property damage risks are issued as proof of State indemnity in lieu of an insurance policy. Please refer to the School Management Section of the ACCS website for current versions of State Indemnity Confirmation Statements.

(g) The State Indemnity Confirmation Statement briefly sets out the scope of State Indemnity. The Confirmation Statement is not subject to change unless there is a change in legislation; therefore there is no requirement to re-issue the Confirmation Statement on an annual basis. The SCA do not amend this Statement to include third party names.

Work Experience

(h) Work experience placements which are approved by the Board of Management are State indemnified.

(i) State indemnity only applies in instances where a Community and Comprehensive School are negligent. Therefore, it is important that Community and Comprehensive School's ensure that Host Employers have adequate insurances in place to cover potential losses associated with their negligence.

(j) The general duty of care which Schools owe to their students extends to the arranging of work experience placements and Schools have a responsibility to ensure that reasonable steps are taken to ensure the safety of its students while on work experience. Placements should be risk assessed to ensure that the placement(s) and the associated activities are suitable for the student in question.

(k) Host Employers may request Community and Comprehensive Schools to provide proof of State indemnity. State Indemnity Confirmation Statements are issued as proof of State indemnity in lieu of an insurance policy.

(l) Please refer to the School Management Section of the ACCS website for further guidance on work experience current versions of State indemnity confirmation statements.

Accident reporting

(m) Under the National Treasury Management Agency (Amendment) Act, 2000, Community and Comprehensive Schools have a statutory duty to report all accidents relating to school activities to the SCA within a reasonable period of time. This includes all accidents involving staff, students, visitors and others.

(n) Accident details should be recorded on **an Accident Report Form**.

[Page 223 of Part 2](#) of the ‘Guidelines on Managing Safety and Health in Post-Primary Schools’ contain an accident report form template (see link below). All completed accident report forms and related correspondence (e.g. witness statements, photographs) should be forwarded to the Enterprise Risk Management Section of the SCA at the details below or can be emailed to stateclaims@ntma.ie:

**Enterprise Risk Management Section,
State Claims Agency,
Treasury Building,
Grand Canal Street,
Dublin 2.**

http://www.hsa.ie/eng/Publications_and_Forms/Publications/Education/Guidelines_on_Managing_Safety_and_Health_in_Post_Primary_Schools.pdf

(o) Schools also have a statutory duty to report the following types of accidents to the Health and Safety Authority (HSA):

- i. the death of any employed or self-employed person, which was caused by an accident during the course of their work.
- ii. an injury sustained in the course of their employment, which prevents any employed or self-employed person from performing the normal duties of their work for more than three calendar days, not including the date of the accident. Calendar days include Saturdays and Sundays (e.g. if an employee, who is injured on Wednesday, and does not normally work on Saturdays, Sundays and bank holidays, returns to work the following Monday, the accident is reportable).
- iii. a death or an injury that requires treatment by a registered medical practitioner, which does not occur while a person is at work, (e.g. a pupil during class) but is related to either a work activity or their place of work. A road traffic accident that meets the criteria (i) and (ii) above, excluding an accident that occurs while a person is commuting either to or from work.

iv. road traffic accident that meets the criterion (iii) above as a result of construction work on or adjacent to a public road.

v If the pupil is injured as a result of a work-related activity and requires medical treatment by a registered medical practitioner this is reportable to the Health and Safety Authority. For example, if a pupil injures him/herself whilst working with a mallet and chisel during wood working class and requires treatment by a registered medical practitioner, this is reportable. However, if a pupil trips in the school yard and is injured, this is not reportable. If a pupil trips during PE class and requires treatment by a registered medical practitioner, this is reportable to the Authority. School trips/tours are considered to be a work activity of the school.

(p) Accidents can be reported to the HSA online using the link below:

<https://webapps.hsa.ie/CIRW/index.php>

(q) When accidents occur due to damaged equipment or furniture, these should be withdrawn immediately from usage and retained for future reference. If the cause of an accident involves footpaths, doors, windows etc. appropriate evidence should be secured i.e. photograph and retained. Remedial action should be taken to prevent a recurrence.

(r) Please refer to the ‘Guidelines on Managing Safety and Health in Post-Primary Schools’ for further guidance on accident reporting.

(s) Cars are parked in school car parks entirely at owners risk. Signs should be displayed to this effect

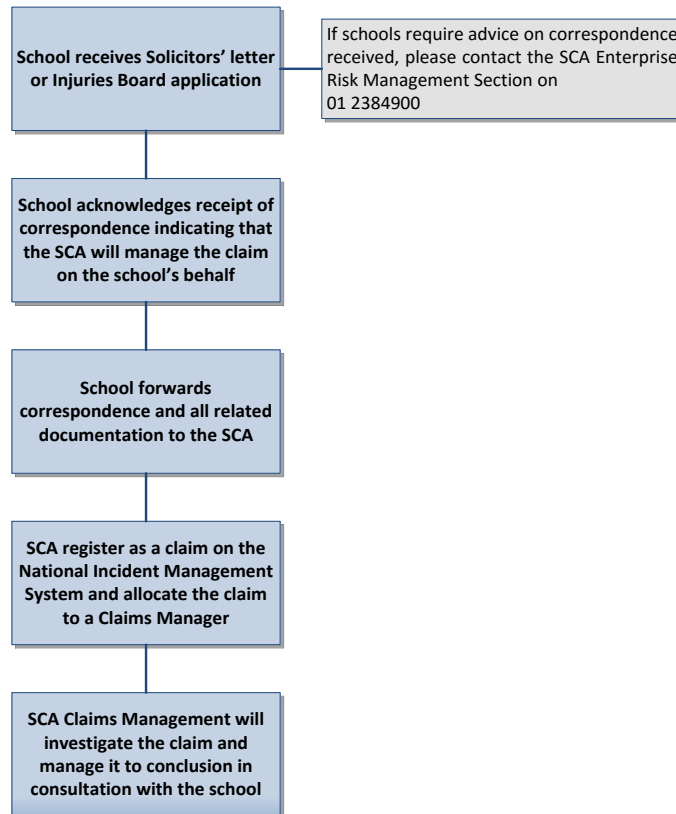
Risk Management Services provided by the SCA

The SCA provide a risk management service to Community and Comprehensive Schools. If a Community and Comprehensive School is uncertain as to whether State indemnity applies or risk management guidance is required, please contact the Enterprise Risk Management Section at the details below:

Email: stateclaims@ntma.ie **Phone** 01 2384900

Personal Injuries and Third Party Property Damage Claims Management

1. Claims brought against Community and Comprehensive Schools which are associated with personal injury and third party property damage are managed by the SCA. Please see the chart below which outlines the steps to follow if you receive any correspondence (e.g. Solicitors’ letter, injuries board application) associated with personal injury or third party property damage claims.



2. Any correspondence (e.g. Solicitors' letter, injuries board application) associated with personal injury or third party property damage claims should be forwarded to the Claims Management section of the SCA at the details below:

**Claims Management Section,
State Claims Agency,
Treasury Building,
Grand Canal Street,
Dublin 2.**

There is no requirement to seek legal advice or take any other action other than forwarding the correspondence to the SCA. The SCA manages a claim from the point of claims notification through to final resolution. Claims are investigated in a thorough and timely fashion in order to facilitate early decision-making in relation to liability and strategy.

If you have any queries in relation to claims, please contact the Claims Management Section on 01 2384900.

Personal Accident Insurance

Personal accident insurance is a no fault compensation policy that is taken out by parents, usually through a scheme managed by the school, which for a small premium covers certain up front medical costs in the event of an injury sustained by their child.

Personal accident policies are not based on negligence and pay when a certain event occurs provided it was not a deliberate act on the part of the claimant.

The SCA recommends that all students avail of this cover. This cover is particularly useful in the school sector, due to the numerous student accidents which are accidental and/or where no fault occurred e.g. sports accidents, falls in school yard etc. The cover can also be for just "school activities" or "24 hour" cover depending on the insurance provider and the policy option selected.

Community and Comprehensive Schools should ensure that the personal accident insurance cover extends to cover all school related activities including work experience placements, school tours etc.