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CARE AND COVID-19 - A FOCUS ON CLAIMS DEFENSIBILITY

Phil Vaughan, Technical Account Manager



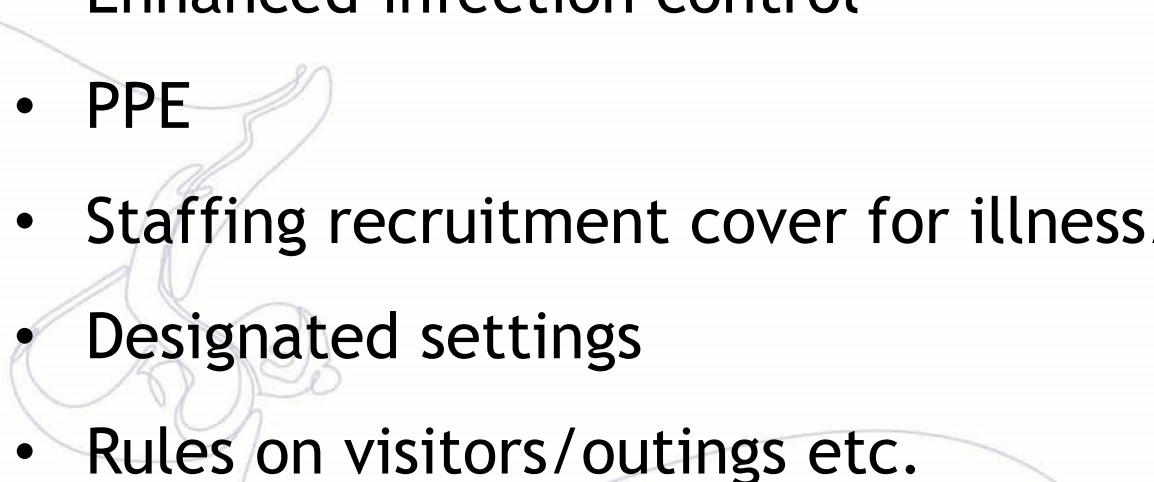


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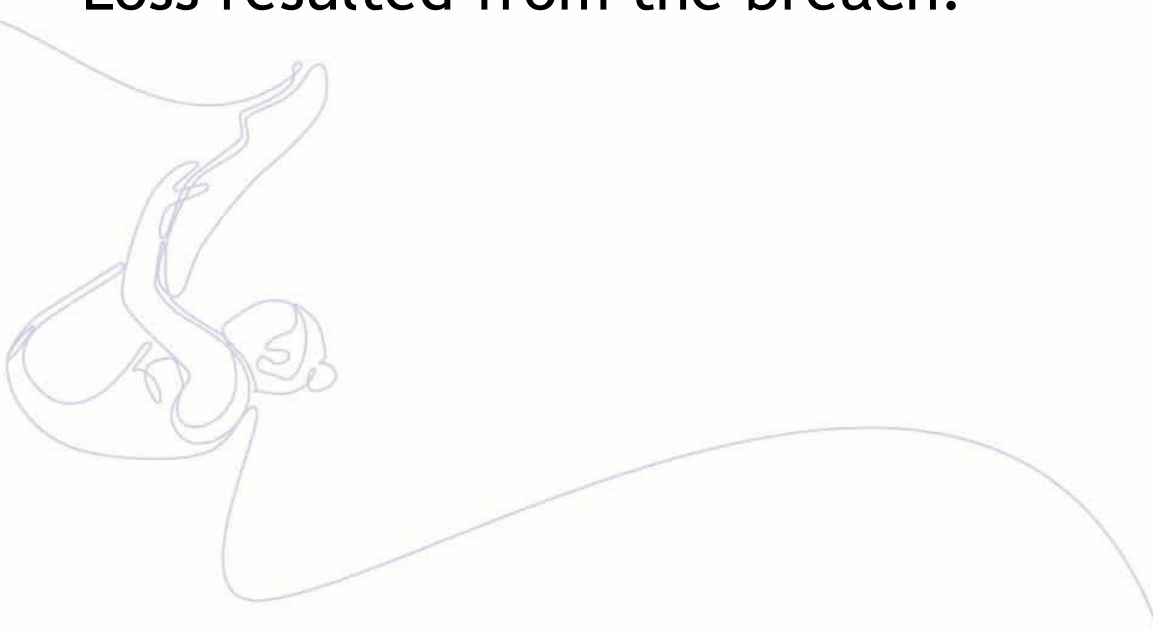
COVID-19 challenges for the care sector



- Rapidly changing guidance
 - Testing
 - Enhanced infection control
 - PPE
 - Staffing recruitment cover for illness/self-isolation
 - Designated settings
 - Rules on visitors/outings etc.
- 

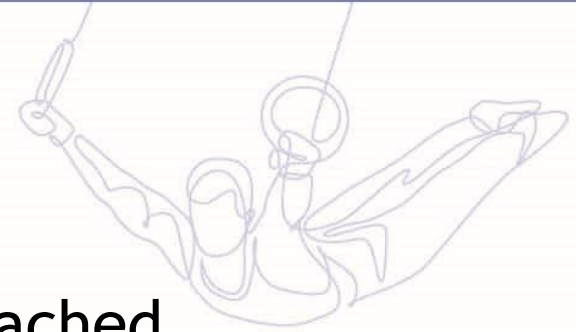
Proving negligence - a reminder

- The injured party was owed a duty of care
- Duty was breached
- Loss resulted from the breach.



Proving negligence

- Key area for us is duty of care was breached
- We need to show no breach - duty was met.



Common reasons why claims succeed

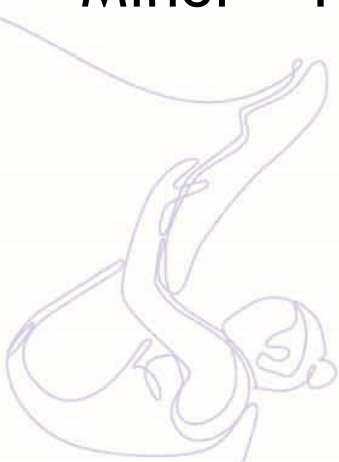
Allegation by claimant	Reason
Risk assessment	<ul style="list-style-type: none">Not done?Not site or task specific?Not addressing requirements of hazard specific legislation?Does not reflect actual working practices?Findings not communicated to employees?
Safe systems of work	<ul style="list-style-type: none">Not prepared or documented?Do not include safe working instructions?Not communicated or employees trained?

Common reasons why claims succeed

Allegation by claimant	Reason
Competence/training	Not provided? Not documented? Competence not validated? Not specific to the work/equipment used?
Enforcement of rules	Work not supervised? Breach of rules known by management?
Accident reports	Report admits breaches of legislation? Reports give unwarranted opinions? Reports missing vital information?

Record keeping

- Personal injury - three years
- Insurance companies - normally seven years
- Minor - 18th year plus three.





GDPR

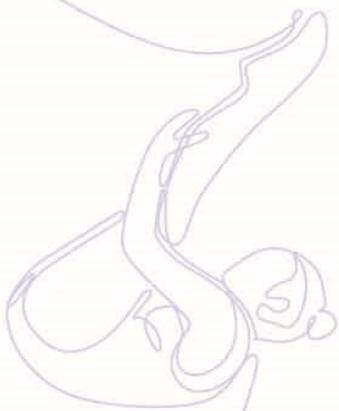
Does not automatically require the deletion of personal data after a fixed period. Some information may be legitimately retained if required to defend claims:

- Employment details
- Sickness absence
- Training records
- PPE provision.

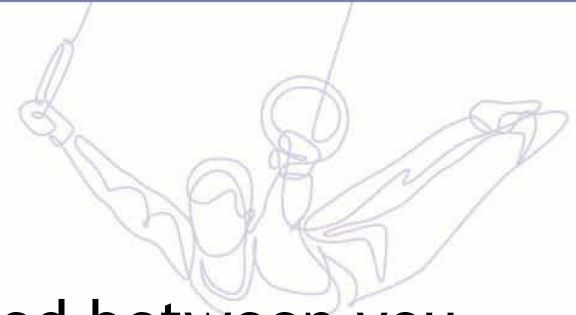
Should have a policy or procedure in place.

RIDDOR

There must be reasonable evidence that something you have either done or not done has directly lead to the injury, ill-health or fatality concerned.



Legal privilege



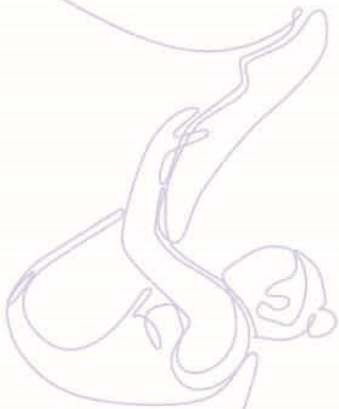
There is a legal principle that things shared between you and your legal representative are private, other documents must be shared with the other parties if requested.

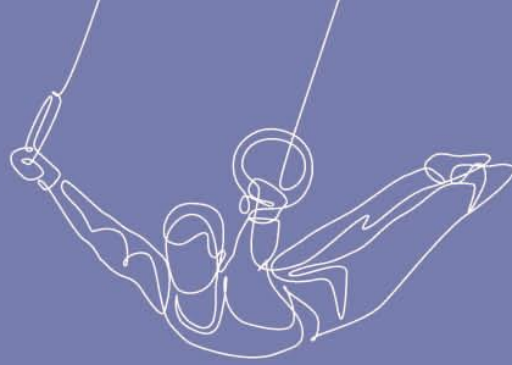
You should have a policy and procedure(s) in place.

A line art illustration of a hand holding a document, positioned in the lower left corner of the slide.

Summary

COVID-19 potentially gives rise to a number of sources of claim, it's important that relevant records are in place and retained in order to defend them.





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