

A bump, a bruise, a sprain, a break...

Unfortunately injuries can occur when taking part in physical activity and dancing is no different – accidents happen. But what happens when the teacher or leader is blamed for causing that incident? **Michael Cashmore**, Corporate Sports Broker, Perkins Slade Ltd, answers some questions

Well, in many circumstances, a formal claim is made. This sets in motion a process that can ultimately lead to the injured party being awarded compensation if they can prove the teacher or leader is at fault. A fundamental tenet of English Law is that we all owe a duty of care to one another and if that duty has been broken, the teacher could be found liable. Arguably, that duty is heightened significantly when you are acting in a professional capacity or putting yourself forward as an expert which, as a teacher, you are.

For negligence to be proven, when a person has suffered a loss, there are four elements that must be considered:

1. A legal duty of care and responsibility must exist between the person alleged to have caused the loss and the person who suffered the loss (it almost certainly does as mentioned above)
2. That duty of care must have been breached
3. The loss suffered must have been caused by the breach of the duty of care
4. It must be foreseeable that the breach of the duty of care would result in the loss being suffered.

For a claim to be successful, the injured person must prove all of these elements.

In the litigious culture we live in, particularly in sport and recreation, the number of negligence claims is increasing constantly, as are the accusations of the type of 'injury' or loss suffered.

The opposite side of the coin however is when the claim is successfully defended. Upon inspection of the circumstances, it could be decided that reasonable steps were taken to prevent foreseeable incidents and that it was merely an accident. Ideally, the claimant (or at least their solicitors) will accept the defence first time. Unfortunately, this is not always the case, which means that eventually a court has to come to a decision if an amicable agreement cannot be found.

The best way to ensure your defence has reasonable prospects of success is to prove you have not breached that duty of care. This can be done by demonstrating that adequate and appropriate steps have been taken and the risks have been managed through your risk assessments!

Sadly, this often lengthy process can be costly and legal fees in the past have often proven disproportionate to the size of the total claim – £90,000 in a case where the

compensation paid was £25,000 being a particular example that Perkins Slade have handled. Recognising this, Lord Justice Jackson recently reviewed this aspect of the legal system and one of the key issues he looked to address was the increasing cost of these legal fees. As a result, legislation came into force in 2013 known as the Jackson Reforms, which will hopefully see disproportionate costs become a thing of the past. Claims which fall within certain criteria – such as those valued below £25,000 and meeting certain response times – have now had their legal fees capped. Time will tell just how much of an impact the reform will have.

Regardless of the costs and the issues above, when an allegation drops upon your doormat you want to know you are protected by an appropriate insurance cover from a reputable provider in whom you have confidence that, whatever the merits of the individual circumstance, they will look after your interests. After all, having been accused of causing (or perhaps even exacerbating) the injury, the last thing that you need at what can be a daunting time, is doubt about your insurance coverage.

Insurance is a risk transfer mechanism. Organisations and individuals purchase insurance to protect themselves from the potential consequences of a large loss for which they might be held responsible. The large unknown financial risk, for example, of injuring another person and having to pay extensive damages and legal fees is transferred to an insurer in return for a much smaller and certain cost of a premium payment.

The Foundation for Community Dance (FCD), in partnership with Perkins Slade, arranges insurance for Professional Individual Members of FCD with the activities of a dance practitioner in mind, ensuring the protection of the members for recognised activities for the risks that matter.

Further specifics on the policies arranged with Perkins Slade can be found on FCD's website and individual certificates of insurance, however Liability insurance is included up to a limit of £10,000,000, costs inclusive.

Perkins Slade - www.perkins-slade.com

Jackson Reforms - www.justice.gov.uk/civil-justice-reforms

Member insurance - www.communitydance.org.uk/insurance

Risk assessments - www.hse.gov.uk/risk/fivesteps.htm