

Serious consequences

Accidents happen, but some can be life-changing for children and those caring for them. **Bernadina Lavery** and **Catherine Reay** explore the responsibilities of schools and early years settings...

Children live in a world full of risks and hazards, and must learn the skills to cope accordingly. As practitioners we have a duty to ensure children can play and learn in a safe environment with safe and suitable equipment while at the same time striking the balance between children taking risks and reaping the benefits. But what does this duty look like in practice? It is supervision, vigilance, assessing and anticipating proportionate real risks and hazards, understanding children's individual needs and personalities, team work, reviewing, evaluating and reflecting on practice. As children grow and develop, they will inevitably become more adventurous, take risks and have accidents, but there is a significant difference between a child requiring first aid to treat a graze or requiring emergency treatment for a life-threatening/-changing preventable accident.

Safety failings

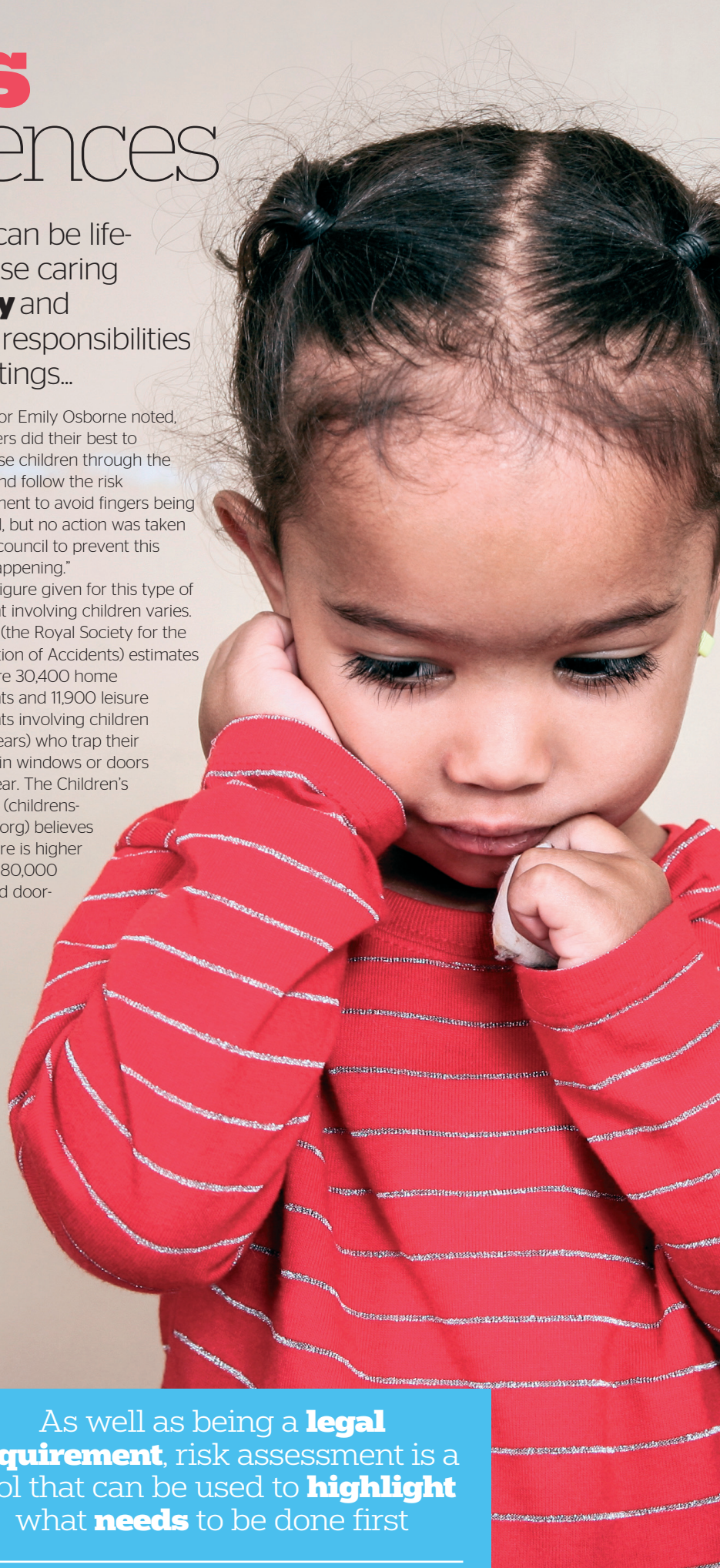
Most of us will have caught our fingers in a door or drawer, sustaining little more than a bruised nail. But for a child, doors and equipment with finger trap hazards can have serious consequences. In a recent case (see ow.ly/y8tMQ), Salford City Council was fined £20,000 in crown court and ordered to pay costs of £3,632 following an accident at a special needs primary school. The prosecution was taken by the Health and Safety Executive (HSE) after a six-year-old pupil with autism and learning difficulties lost the tips of three fingers when his left hand became trapped in a school gate.

The risk of children trapping their hands in the outside gates had been highlighted to the council in a report in 2004. At the time of the accident there was a risk assessment in place. This advised staff to control the risk of entrapment by vigilance and supervision. Staff had opened the gate to allow 10 children into the playground and the pupil's hand became trapped at some point whilst the children walked through.

Guards were only fitted to these and other gates at the school after this accident happened. After the hearing, HSE

Inspector Emily Osborne noted, "Teachers did their best to supervise children through the gates and follow the risk assessment to avoid fingers being trapped, but no action was taken by the council to prevent this from happening."

The figure given for this type of accident involving children varies. ROSPA (the Royal Society for the Prevention of Accidents) estimates there are 30,400 home accidents and 11,900 leisure accidents involving children (0-14 years) who trap their fingers in windows or doors each year. The Children's Charter (childrens-charter.org) believes the figure is higher at over 80,000 reported door-



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related accidents. These figures should be treated with caution as they are likely to be an underestimate: many accidents and near misses may go unreported. Whatever figure is most accurate, it is unacceptable given that such accidents are easily preventable.

The issues

The case described above highlights a number of important points about managing health and safety. Section 3(1) of the Health and Safety at Work etc. Act 1974 states: "It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety." In this case the council failed to meet its duty "so far as is reasonably practicable" as the cost of fitting the guard to the gate was low and the risk of injury was well known, the consequences severe and the chance of injury high.

Whilst vigilance and supervision may have been an interim measure when the risk was first highlighted, it was not a long-term solution to remove or reduce the risk. Measures taken to deal with risks need to be practical and effective. The fitting of guards to the gates was a reasonable action to take

proportionate to the risk involved.

While this example concerns a primary school, there are currently cases under investigation that relate to babies and young children sustaining serious injuries due to finger trap accidents.

For instance, in another case in 2011, a nursery owned by Just Learning Limited was fined £40,000 and ordered to pay £35,000 costs when a 14-month-old boy had part of his finger amputated by a closing door (see ow.ly/y8uGr).

Ask yourself where the finger trap hazards are in your setting. Risk assessment is the cornerstone of any successful health and safety management system. As well as being a

legal requirement, risk assessment is a tool that can be used to highlight what needs to be done first. Serious risks need to be prioritised and dealt with within an appropriate time scale.

Developing a safety-conscious culture

It is important that employers and employees work together to make sure that they meet their responsibilities and in doing so create and maintain a safe and healthy environment. This may seem like common sense, but very often accident investigation highlights deficiencies. HSE recommends a simple, four-stage approach for successfully managing health and safety:

Plan, Do, Check, Act

1. Plan

- Identify what you want to achieve.
- Involve your staff in the plan.
- Use risk assessment to prioritise what needs to be done first.

2. Do

- Implement your plan.
- Drive the plan with strong, effective leadership and management.
- Provide ongoing training and development.
- Encourage practitioners' participation and engagement.
- Ensure understanding and ownership of responsibility.

3. Check

- Is your plan working in reality?
- What systems are in place to confirm that this is happening?
- Is your plan up to date - are there any changes, e.g., law, practice, premises, that you need to consider?

4. Act

- Take quick and sensible action to deal with defects and problems.
- Investigate accidents and incidents, and learn from them.
- Implement a system to identify, manage and review risks.

Learning lessons

Accident recording and investigation are important risk management tools that should be used to identify what went wrong and why. This enables corrective action to be taken to try to prevent recurrence. However, the key to accident prevention is risk assessment and this is why risk assessment is such a central theme in health and safety law. When a serious accident occurs, it can have catastrophic consequences for the victim, their family, the employer, staff and local community.

The revised EYFS Framework for use from September 2014 is very clear in outlining providers' duties with regard to managing risk. It also reinforces the need for practitioners to seek advice from HSE for guidance on risk assessments, stating: "Providers must ensure that they take all reasonable steps to ensure staff and children in their care are not exposed to risks and must be able to demonstrate how they are managing risks".

To conclude by returning to the earlier case study, HSE Inspector Emily Osborne summed up our responsibilities well when she commented, "It is simply not good enough to identify something as being a serious risk but then to do nothing about it."

findoutmore

Bernadina Lavery and Catherine Reay are co-authors of the book *Health and Safety in Early Years and Childcare: Contextualising health and safety legislation within the Early Years Foundation Stage* (NCB, £22.99). The book brings together health and safety legislation and the welfare requirements within the revised EYFS, and provides a practical guide for practitioners to help ensure children can play and learn safely. Visit shop.ncb.org.uk



Adult responsibilities

All registered providers must ensure that their premises and equipment used by children is safe and suitable. The safeguarding and welfare requirements of the EYFS have legal jurisdiction under section 39(1) (b) of the Childcare Act 2006. These requirements are designed to ensure practitioners provide welcoming, safe and high-quality settings and learning experiences for all children. The EYFS outlines that all providers must comply with requirements of health and safety legislation. Therefore, as practitioners, it is important to ensure that children's safety is given high priority in your setting by everyone working with children.

For more information on managing health and safety, visit hse.gov.uk/toolbox/managing/index.htm