

# General Liability Incident Response Kit

## Risk Control from Liberty Mutual Insurance



Companies strive to conduct their operations, perform services, and manufacture and distribute products without causing harm to third parties. If an incident does occur, your company's response can influence the outcome of any general liability claims that result.

Having an effective response starts by establishing a company policy and providing sound guidance to those in the organization who are most likely to encounter third party events.

It is essential that users understand the purpose and limitations of this document. The contents of this document are recommendations and suggested practices your business can implement when responding to a general liability incident. Every incident is different and the appropriate response will depend on the facts and circumstances of that particular incident. The intent of this document is to help our liability policyholders better understand the need for effective incident response and it provides content that may prove useful to your Liberty Mutual claims professional when or if an actual reportable, covered claim follows.

You should not construe this document as a guarantee or confirmation of coverage under any applicable policies of insurance; coverage is still subject to the terms and conditions of your policy.

### Incident vs Accident

Throughout this document we use the term "incident" to mean an event sustained by a third party either on your premises or by using your product. We distinguish "incident" from the term "accident," and define "accident" to mean an event serious enough to justify a third party claim. For purposes of this document, an incident investigation means your work examining the conditions and situations relevant to an event that resulted in one of your customers or the public sustaining some loss on your premises or experiencing some damage to a vehicle or other property. There is no intent to imply any other outcome of the incident experienced besides offering tips on how to conduct such an investigation.

### Benefits of an Effective Incident Response

Developing and adopting an effective general liability incident response can provide numerous benefits, including:

- Providing consistency in managing general liability incident responses across all aspects of your operations
- Demonstrating your commitment to good corporate citizenship
- Ensuring ethical and fair treatment for all third parties potentially impacted by your operations
- Contributing positively toward maintaining your good public image
- Improving insurance carrier's ability to successfully manage general liability claims to optimum outcomes, which in turn, may lower the company's net cost of risk and insurance

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## Suggested Incident Response Guidelines

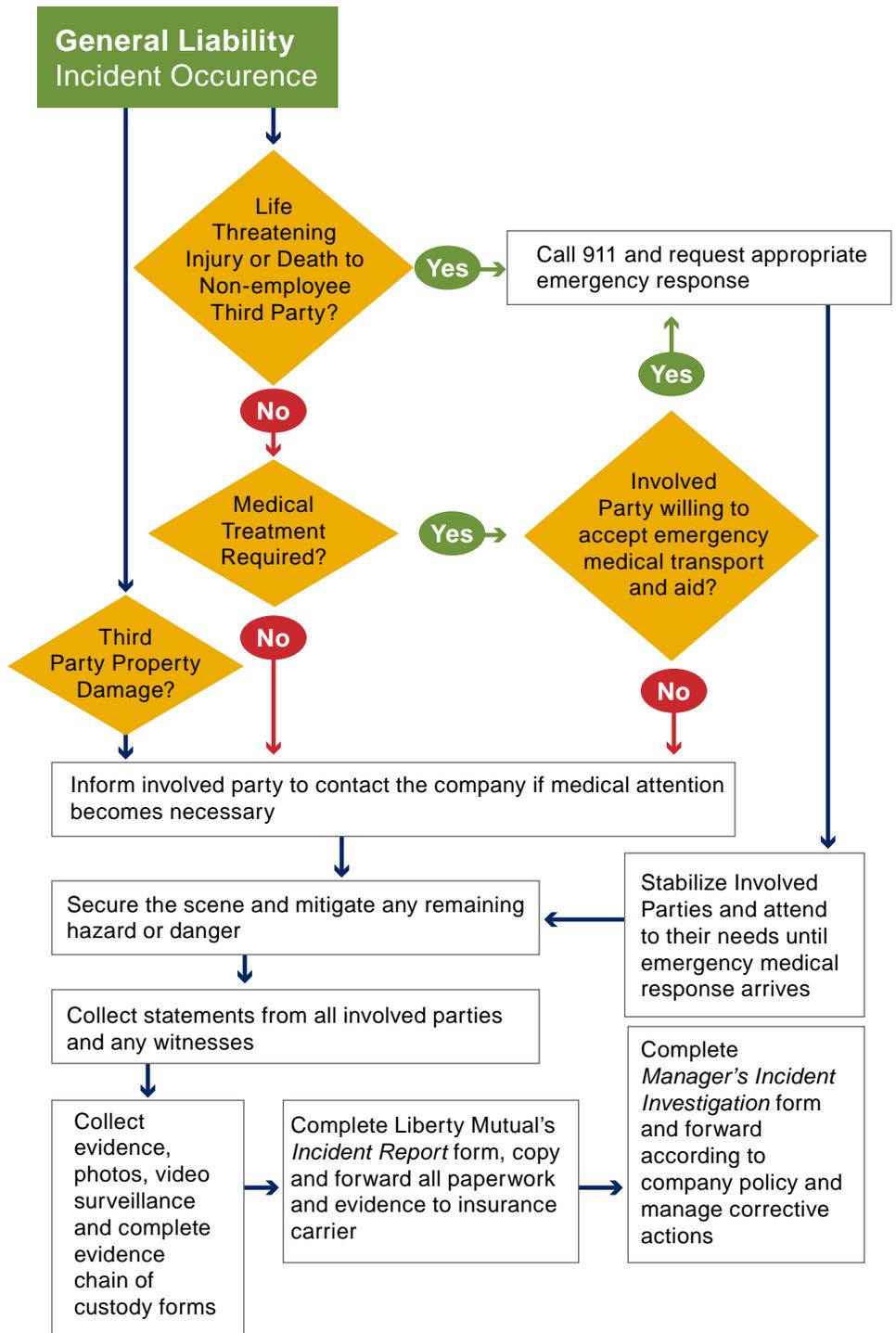
1. Upon being notified of an incident involving a third party, other than an injury or auto-related incident involving an employee, consult the General Liability Incident Response Flow Chart (p.3) for recommendations on response.

Third party examples can include customers, contractors, service providers, vendors, concessionaires, and even trespassers or the public at large. Also included are competitors, interest groups, municipalities, and other government entities — basically, anyone who may have legitimate access to your property and/or operations. Employees are generally required to submit claims for bodily injury that occur during the course and scope of their employment through worker's compensation and are typically barred from filing suit against their employer in most instances, except situations in which the employer acts with extreme negligence or with intent and malice toward the employee. Employer's liability coverage is provided by Part B of your state Workers Compensation policy.

**Note:** This document does not provide recommendations regarding incidents involving company vehicles or employee use of personal vehicles on company business.

Examples of common incidents that may benefit from these recommendations:

- Customer slips, trips, or falls on company operated premises
  - Bodily injury to a hired contractor, service provider, vendor or concessionaire's employee
  - Third party vehicle damage who is passing through a road contractor's job site
  - Property damage to third parties as a result of company operations (on your premises or those on your customer's premises)
  - Bodily injury or property damage to a third party who was using or consuming your company's product
  - Third party damage caused by the company's completed operations
  - Personal injury to a third party, such as invasion of privacy
  - Defamation of a competitor's product or services
2. In the event you receive a summons, complaint, or other notice of legal representation and action, you should immediately forward to your designated legal contact or whomever is responsible for risk management and insurance. It is not uncommon for a summons or letter from legal counsel representing a plaintiff to be the first notice of a third party legal action against a company. It is important that these notices not be ignored and be forwarded promptly to corporate management's attention.
  3. Review Suggested Tips on What to Do and What Not to Do Immediately After an Incident
  4. Review Peril-Specific Critical Interests (p.3)
  5. We recommend you frame your response according to the guidance outlined in the General Liability Incident Response Flow Chart. Complete and compile all appropriate forms. Couple with any evidence secured from the scene. Copy and send all documentation to your Liberty Mutual Insurance general liability claim unit and as otherwise indicated by company policy.
  6. Complete Manager's General Liability Incident Investigation Form (p.5-6) and manage any corrective actions that result from the investigation.



### Suggested Tips on What to Do and What Not to Do Immediately After an Incident

These are general tips and recommendations on how to respond to general liability incidents. Every situation is different and the response may differ based on the unique circumstances of the particular situation. This list consists of general responses to

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general liability incidents and is not intended to be exhaustive and should not be considered professional advice.

### Do

- Respond to the incident promptly.
- Call 911 if incident involves injury, death, criminal activity or significant property damage.
- Stabilize involved parties, if necessary, until emergency medical response arrives.
- Mitigate, contain or establish separation from any ongoing hazard or danger.
- Secure the scene and prevent unauthorized entry.
- Show compassion for injured parties.
- Act courteously.
- Act professionally.
- Collect contact information and statements from all willing and involved parties and any witnesses.
- Preserve any evidence, collect photos and available video surveillance of the scene. Take pictures after the incident from several angles without the claimant in the pictures. Take and preserve photos in the direction the claimant was walking.
- Complete the Manager's General Liability Incident Investigation Form or similar type document. Report the incident and forward all related documents and evidence to the Liberty Mutual Claims as soon as possible and according to company policy — no matter how slight the injury.
- Inform involved parties that a company representative will contact them to follow up on the incident. Make special note of those who refuse emergency medical care or transport from a responding authority (e.g., EMTs).
- If no injury is apparent as a result of the incident, request that involved parties notify the company if they eventually choose to seek medical attention.

### Don't Do

- Attempt to move involved parties if they appear injured, unless in imminent danger.
- Apologize for the incident.
- Admit fault or responsibility.
- Assign blame or argue with the injured party about the cause of the incident.
- Detain involved parties against their will.
- Reprimand an employee at the scene of an incident.
- Mention insurance.
- Offer to pay medical expenses.
- Tamper with/destroy/hide evidence or misrepresent facts of causation.
- Discuss the incident with anyone other than company representatives who need the information, or governmental authorities. You should not discuss the incident with outside parties unless approved by management.
- Permit investigators to take pictures at the scene without supervision and management approval.
- Self-transport or allow another company representative to transport involved parties for medical treatment or elsewhere (except in cases of emergencies).
- Insist that involved parties complete any paperwork if they refuse to comply.

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## Peril-Specific Critical Interests

Be sure to work with your legal counsel for further details on what to do and how to respond after an incident occurs.

### Premise Slips, Trips, and Falls

Determine whether another party has responsibility for maintenance, housekeeping, or inspection of the involved premises. Consider contractual accountabilities and their relevance to the facts of the incident.

Where possible, verify why any injured parties were on the premise and their purpose for being there. The claimant's legal status (i.e. business invitee, licensee, trespasser, etc.) determines legal duty owed by the premise operator and/or owner.

Explore anything about the injured party that might have contributed to the incident:

- Type and condition of footwear
- Carrying objects
- Distraction
- Mental or physical condition or impairment
- Corrected vision (glasses or contacts)
- Gait or mobility limitations
- Rushing or hurrying

If a walking surface abnormality or contaminant is involved, was the injured party fully aware of the hazard before traversing it? If so, preserve evidence that may be pertinent to estimating how long the condition may have existed prior to incident. Were signs provided indicating a present hazard?

If the incident involves a recognized hazard, was a warning or separation provided?

Are maintenance records, housekeeping inspection records (e.g., sweep logs, etc.) and/or housekeeping practices kept and available?

If the walking surface was treated, who treated it, when was it treated, and what types of slip resistance tests were taken?

If weather conditions were involved, indicate start/stop date and time of inclement conditions.

If weather conditions were involved, indicate time of last inspection, housekeeping, shoveling, plowing, or ice treatment of premises, especially those areas of the premises involved in the incident.

Is injured party likely to file a claim or legal action? What is the person's attitude toward the premise operator and the event? Who is the person blaming for the injuries or is the person acknowledging culpability?

### Food Liability

When and from whom did the third party purchase the product?

Do you have contractual agreements with the food suppliers and component parts (e.g., lettuce) vendors?

How long did the third party have the product in possession before using or consuming?

Was the product purchased before or after the "sell by" date? Were expiration dates exceeded and was that a contributing factor?

Did the third party say he or she suspected something was wrong with the product before using or consuming?

Is a foreign object involved?

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What did the injured party eat in the 24 hours before the incident?

Might other persons have been injured by the same product? If so, have you reported this to the local Public Health department?

If possible, secure the subject product from the third party and preserve per your legal counsel directions.

If not possible to secure the subject product, collect all product identification information possible.

### Property Damage

Secure and preserve any damaged or defective equipment, product, or materials involved in the incident.

Take photos or collect video footage of all damage before enacting repairs.

Determine any other parties who may have contributed to the damage or may have responsibility for the condition.

Secure and copy all relevant records related to the work for which damage is alleged; including contracts, purchase orders, requisitions, change orders, specifications, white prints, etc.

Identify material or equipment that may have contributed to the damage. Secure and copy all records related to the purchase and maintenance of these items.

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## Manager's General Liability Incident Investigation Form

This form is only a suggestion and is used to illustrate an example of what could assist you in documenting any general liability incident.

Talk with your Liberty Mutual Insurance Claim professional about any additional information that may be needed for your claim.

### Incident Description

\_\_\_\_\_  
*Incident Date* *Time*

### Incident Location

\_\_\_\_\_  
*Street address*

\_\_\_\_\_  
*City* *State* *Zip*

\_\_\_\_\_  
*Location on the premises (e.g., Aisle 1 Produce department)*

### Brief description of incident

**Involved Parties:** Was a third party involved?  Yes  No

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## Property Damage or Personal Injury Details

### Injured Party #1

<hr/>		<hr/>
<i>Name</i>		<i>Phone Contact</i>
<hr/>		
<i>Street Address</i>		
<hr/>		
<i>City</i>	<i>State</i>	<i>Zip</i>
<hr/>		
<i>Age</i>	<i>Name of Parent or Guardian if under 18</i>	

### Brief description of injuries or damage sustained

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*Relationship to insured (reason for involvement):*

### Treating clinic or medical provider

<hr/>		<hr/>
<i>Name</i>		<i>Phone Contact</i>
<hr/>		
<i>Street Address</i>		
<hr/>		
<i>City</i>	<i>State</i>	<i>Zip</i>

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**Injured Party #2**

<i>Name</i>		<i>Phone Contact</i>
<i>Street Address</i>		
<i>City</i>	<i>State</i>	<i>Zip</i>
<i>Age</i>	<i>Name of Parent or Guardian if under 18</i>	

**Brief description of injuries or damage sustained**

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*Relationship to insured (reason for involvement):*

**Treating clinic or medical provider**

<i>Name</i>		<i>Phone Contact</i>
<i>Street Address</i>		
<i>City</i>	<i>State</i>	<i>Zip</i>

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## Company Representatives or Others Witnessing or Responding to Incident

### Witness #1

<hr/>		<hr/>	
<i>Name</i>		<i>Email</i>	
<hr/>		<hr/>	
<i>Street Address</i>		<i>Telephone Number</i>	
<hr/>		<hr/>	
<i>City</i>	<i>State</i>	<i>Zip</i>	

Did they observe the incident?  Yes  No

### Witness purpose for being at the location.

### Describe any affiliation to involved parties.

Attach Witness Statements if collected

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**Witness #2**

<hr/>		<hr/>	
<i>Name</i>		<i>Email</i>	
<hr/>		<hr/>	
<i>Street Address</i>		<i>Telephone Number</i>	
<hr/>		<hr/>	
<i>City</i>	<i>State</i>	<i>Zip</i>	

Did they observe the incident?  Yes  No

**Witness purpose for being at the location.**

**Describe any affiliation to involved parties.**

**Attach Witness Statements if collected**

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**Name of Emergency Responders and/or Treating Medical Professional, Clinic, or Hospital**

Medical treatment provided by whom and for what?

**Most Plausible Causal Factors for Incident**

Provide a brief summary of what you believe to have caused this incident based on what you learned and concluded.

**Evidence Secured**

Item Name	Description

\_\_\_\_\_ *Manager Signature* \_\_\_\_\_ *Date*

\_\_\_\_\_ *Printed Name*

Conducting a GL incident response process assessment can help you learn how well the incident investigation process works.

## General Liability Incident Response Process Assessment

This assessment can be used for one or multiple locations so a Risk Manager can examine how well individual sites have addressed GL incidents and learned from those experiences. The assessment lists processes/roles and offers items to consider as you evaluate your overall GL incident response process. Areas are included to list current practices and note opportunities for improvement.

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*Company Name*

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*Contact Performing Evaluation*

*Date*

### Written incident response, reporting, and investigation protocols

- Do response and protocols cover all reasonably foreseeable incident scenarios for this type of business?
- Are there definitions of what is reportable and what is not?
- Do you contact central coordinator, Liberty Mutual Claim Department, or your agent?
- Do protocols define timeliness of report and scope of incident response?
- Do managers and employees understand the means to complete the forms and are they held accountable for doing so?

#### Current practice

#### Opportunities for improvement

### Central incident response coordinator

- Has a designated person(s) been assigned to coordinate the plan?
- Are they held accountable for the overall process implementation and effectiveness?
- How does this role manage, monitor, coach, enforce expectations, and audit plan performance?

#### Current practice

#### Opportunities for improvement

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### Designated incident responders (i.e., location managers, etc.)

- Are there designated incident responders?
- Are there enough responders assigned to ensure coverage of all operations at all times?
- Have they been suitably trained regarding their roles, expectations, protocols, tools, etc.?

#### Current practice

#### Opportunities for improvement

### GL incident response tools or other just-in-time guidance

- What type of incident response kit is used?
- Does it include instructions, incident report form, coaching checklists, incident response flow chart?
- Are these tools readily available and accessible so that incident responders know where to find them and how to use them?

#### Current practice

#### Opportunities for improvement

### Training and preparation

- Is adequate training provided for individual roles (e.g., corporate incident response coordinator, designated incident responders), including initial training and periodic refreshers?

#### Current practice

#### Opportunities for improvement

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## Continuous improvement and feedback loop

- What systems are in place to verify the plan is functioning as expected?
- Are there mechanisms to drive consistency and continuous improvement?
- Are reports examined for response quality?
- Do reports identify improvement opportunities or how could it be better?
- Are post-incident audits, coaching, and feedback conducted?
- How are success stories shared and used periodically to frame future expectations (what does good look like)?

### Current practice

### Opportunities for improvement

## Performance reviews

- Is the plan periodically reviewed and improvements considered?
- Are stakeholders (incident responders, general employees, etc.) randomly surveyed to verify their understanding of the process, their proficiency with tools, etc.?
- Is a sampling of recent incident reports reviewed to determine that both content and process meet plan objectives? See Managers GL Incident Investigation form for assessment criteria.

### Current practice

### Opportunities for improvement

## Annual review

- Are plan policies and procedures reviewed to ensure they are appropriate and applicable?
- Are noteworthy adjustments made and changes communicated to all stakeholders?

### Current practice

### Opportunities for improvement

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