

Allianz Corporate Ireland plc

Schools Journal



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Legal

Legal Review

Risk Management

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Editorial

Dear Friends. Welcome to the Spring 2007 edition of our *Schools Journal*.

There have recently been considerable comments in the media regarding the possible exposure of individual members of Boards of Management to legal actions relating to criminal acts by employees of the School Board. To allay concerns of existing members of Boards of Management and prospective new members, we wish to confirm the following: -



Michael Nolan
Member of the Board of Management

The Indemnity to Management Section of the Allianz Custodian School Protection Policy provides cover in relation to legal liabilities arising, inter alia, from the performance of their duties by the Board of Management. The indemnity provided is in respect of legal costs and damages incurred in connection with a claim. Naturally there are terms, exceptions and conditions attaching to the Policy, but it is important to state that there has never been a case where a Board of Management has been left without indemnity in relation to such claims. In effect a Board, or a member of a Board, who do not consciously set out to commit a

criminal act are provided with cover in the dispensation of their duties.

Critically the cover provided under the Allianz policy includes legal liability, which attaches to the Board of Management, collectively and individually, as a consequence of a criminal act by an employee or other person for whom the Board is responsible. It is correct to state that the policy does not afford any protection to the perpetrator of any such criminal act, however this does not affect the indemnity provided to the Board of Management. In such a circumstance, Indemnity is provided not only to the Board of Management as a Corporate Body, but also to each individual member of the Board of Management. The standard limit of indemnity under the Allianz School Policy in any one year is €2,600,000.

Further information can be obtained on our website www.allianz.ie/schools – refer *Guide to Insurance, Safety & Security Handbook* Chapters 2 and 7 – Indemnity to Management.

If there is any additional information we can provide in relation to any articles published in this issue of the *Schools Journal* or indeed, if you have any issues you wish to raise, please do not hesitate to contact us.

If you have a query regarding your school insurance and wish to contact us by email, our address is education@allianz.ie. Please quote your policy number in the subject title of the email. Our specialist school website is www.allianz.ie/schools. You can also contact our Education Team at 01 613 3966, your local Allianz Representative or your Insurance Broker.

Yours sincerely

Michael Nolan
Member of the Board of Management

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Recent Appointments

As part of our ongoing commitment to provide a quality service to our Religious, Education, Community and Voluntary sector Customers, we are delighted to advise you of the following recent appointments and additional resources to our External Team.



Nuala O'Connor FCII

Nuala joined Allianz in 1985. She then joined Commercial Union in 1992 followed by a variety of freelance and consultancy roles. In 2002 Nuala rejoined Allianz and is based at our Belfast Office. Nuala is a Fellow of the Chartered Insurance Institute and has a NEBOSH Diploma in Occupational Safety and Health. Living in Lisburn, Nuala is married with 2 teenage sons.

Nuala's area of responsibility is Religious, Education and Charity Business in Northern Ireland including the Diocese of Armagh North, Clogher North, Down and Connor and Dromore.

Phone: 07802 961908

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Noel O'Loughlin ACII

Noel, who is based at our office in Limerick, joined Allianz in 1987. Up to now Noel has worked as an Underwriter in the Commercial, Religious, Education and Social Divisions. Over the last few years Noel has worked as Claims Handler/Investigator. Noel who is an Associate of the Chartered Insurance Institute, lives in Ennis and is married with 2 children. His interests are soccer, GAA, hiking and cinema.

Noel's area of responsibility will be the Diocese of Killaloe, Limerick and Cashel & Emily.

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Neil Tobin ACII

Neil is a native of Courtmacsherry, Co. Cork and was educated at St. Finbars Seminary, Farranferris, Cork. He joined Allianz in 1978 and until recently worked as a Commercial Business Development Executive before taking over from his late cousin Brian Tobin in his new role. Neil is an Associate of the Chartered Insurance Institute and is married to Fiona. He is a keen sports person with particular interest in GAA, Rugby, Golf and Tennis.

Neil's area of responsibility will be the Diocese of Kerry, Cork & Ross and Cloyne.

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Alan Black (Dip)

Alan, who is from Drogheda, joined Allianz in 2000 after completing a Business and Marketing course in Dundalk Institute of Technology. He has been working in the Religious and Education Team for the last 4 years as an Underwriter. Alan holds a Diploma in Insurance and will complete his Associateship with the Chartered Insurance Institute within the next year. His hobbies are golf, soccer and GAA.

Alan has recently been appointed as trainee Business Development Executive and initially will be assisting in the Diocese of Dublin, Meath, Kildare & Leighin, Armagh South and Clogher South.

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Computer hardware security including desktop and portable equipment

In the last edition of the School Journal, we addressed the issue of Internet Safety and Security Procedures. In this edition we focus on the physical security of computer equipment and set out a number of relatively simple measures, which should be implemented by schools to prevent loss of or damage to such equipment.

While accidental damage is a common enough occurrence in relation to claims, theft is the major contributor to the high extent of losses involving Computer Equipment. Such equipment, especially Portable Computer Equipment such as Laptops, is comparatively attractive to thieves due to the relative ease with which such equipment can be “re-sold”.

The following guidelines should be implemented as a minimum to reduce the potential exposure to loss or damage. For ease of reference we have separated the guidelines into two areas - those relating to General Physical Security and those relating more specifically to Laptops.

1. General Physical Security

- ▶ All equipment should be registered with the manufacturer.
- ▶ Out of school hours, all doors allowing access to areas where Computer Equipment is stored should be locked.
- ▶ All computers should be set up with a password requirement at logon. While this in itself may not act as a deterrent to thieves, it will at least make it more difficult for an unauthorised user to access the computer. This in turn will increase the likelihood of its recovery.
- ▶ Computers should have a password requirement once the screensaver is in operation. This should deter opportunistic criminals.
- ▶ All Computer Equipment should be asset tagged and/or engraved.
- ▶ A formal user policy, incorporating **as a minimum** the issues addressed in this article, should be established and implemented in respect of all Computer Equipment.

2. Laptop Security

The portability and “resale” potential of laptops make these items a particularly attractive and indeed relatively easy target

for thieves. Up to 70% of computer losses reported to Allianz involve theft of portable equipment. An additional cause of concern to schools is the avoidance of pressure and stress involved in replacing lost portable computer equipment – particularly where sensitive school or personal information is stored on readable memory devices.

The following simple precautionary measures should be implemented to reduce the exposure to the incidents of Laptop theft:

- ▶ Lock Rooms where portable computer equipment is left when not in use.
- ▶ Whenever possible, cable locks should be used. Where this is not practical, place the laptop out of sight.
- ▶ Permanently marking the outer case of a laptop with your school’s name, address, and phone number will significantly increase the chances of recovery of the Equipment.
- ▶ Tamper resistant nametags are available which can help the Gardai return your laptop where it is recovered.
- ▶ On journeys, store the laptop safely in the boot or luggage compartment of the car **before commencing** a journey (not when parking – where potential criminals can see that a laptop has been so stored).
- ▶ Lock doors and windows **EVERY** time you leave the vehicle unattended.
- ▶ Do **NOT** leave laptop(s) in the car overnight.
- ▶ Do **NOT** leave a number of laptops together in one place – this presents an easy target for potential thieves.

The requirements of individual schools may vary, dependent of the nature and quantity of Computer Equipment involved. However implementation of the foregoing guidelines as a minimum should help to reduce the exposure to loss.

In the next edition of the *Schools Journal* we will cover the topic of Malicious Software (Malware) and some steps, which can be taken to reduce the exposure to this problem.

Supervision of Pupils Outside Official School Opening Hours – A Dilemma

One of the most frequently asked questions we receive when the challenging subject of supervision is being addressed is what level of supervision should be in place in schools before and after the official start and finish times of the school day.

Under the legal principle of “in loco parentis” the duty of care imposed on a school is to take such care of pupils as a careful parent would of his/her children. The school has a duty to supervise pupils at all times during which they are in the charge of the school. If the school allows access to the school premises before the official opening hours then the duty to supervise applies. In the same way, where pupils are on the school premises after hours a similar duty applies.

It is not unusual for parents to leave their children at the school some time before the start of the school day, and likewise collect their children some time after school finishes. While parents are not entitled to arbitrarily attempt to absolve themselves from their responsibility for the safety of their children, such action by parents does not wholly absolve the school of their responsibility to provide supervision.

Unfortunately this is a dilemma which holds little sway with the courts who will argue that the practice of parents leaving pupils at a school before hours or collecting them after hours is one which is known to schools, and within acceptance of that fact there is an obligation to provide supervision.

Nevertheless schools can alleviate the potential exposure to claims in this regard by issuing a letter/note to all parents at the beginning of term advising them of the times during which the school can accept responsibility for their children. Such a letter/note is effectively in the form of a disclaimer and can prove to be a useful



deterrent against claims being made against the school. While it is doubtful if such disclaimers carry the desired protection in law, we do, in general terms, recommend their usage.

As regards the School Transport System, schools are not party to this, and the fact that the children are conveyed to or from school by bus does not impose any additional obligations on the school. As we have stated, it is important that parents are made aware that no arrangements exist for the supervision of their children who arrive at the school, whether by school bus or otherwise, before the official opening times. A similar situation arises in respect of children who remain after school hours awaiting collection by the school bus.

Please refer to Pages 39 & 40 of our *Guide to Insurance, Safety and Security in the School* for a recommended wording in relation to the notification of official school times.

Where a Principal or other member of staff takes it upon themselves to

voluntarily provide supervision outside of official school hours they could be deemed by a Court to have created a precedent, and consequently they could be held to be liable if, having established the practice, they fail to do so for some reason or another.

Notwithstanding all of the foregoing, it is important to emphasize that cover under the Allianz Custodian School Protection Policy in respect of accidental injury or damage, as defined in the Policy, will, subject to the policy terms, Definitions, Conditions, limitations and Exclusions, operate where the school is held to be legally liable, whether such injury or damage occurs before, during or after official school times.

If you any queries in relation to any aspect of this article, please contact our Education Team at 01 613 3966 or your local Allianz Representative.



Specific Play/Outdoor Activity Areas

The installation by schools of specialised play/outdoor activity areas (referred to as “Playgrounds” for the purposes of this article) has increased noticeably in recent months. “Playgrounds” can provide children with fun, fresh air and exercise, but they can also pose significantly increased safety hazards. For example unsuitable or damaged surfaces, faulty equipment and inadequate supervision are just a few of the exposures which can result in accidents on “Playgrounds”.

A risk assessment and documented procedures in relation to the area and equipment should form part of the School’s Safety Statement. The most important factors in evaluating the safety of a “Playground” are surface,

design and spacing, supervision, equipment inspection and maintenance. The following steps should be implemented as a minimum to ensure that the risk of injury to children is reduced.

1. Location & Design

- ▶ Professional advice should be obtained with regard to the layout and design of the “Playground”, ensuring it is suitable for its purpose and can be accessed safely. Any adjacent hazards, such as vehicle access to the school grounds, should be identified and reviewed.
- ▶ The surface should be free of standing water, rocks, loose stones, tree stumps, tree roots and debris of any kind which could cause children to trip and fall. School procedures should include provisions for the presence of ice, snow and other adverse weather related conditions.
- ▶ Accidents in “Playgrounds” arise mainly due to the way children move about – running, jumping etc – within the area. Equipment should be positioned so that there is no cause for pupils to run across moving equipment, thus running the risk of being struck by moving equipment.



- ▶ Any access gate should normally open outwards, except where it opens directly onto traffic or is likely to cause a hazard. The gate should preferably not close quicker than within five seconds to facilitate wheelchair access and additionally to prevent it striking a child walking through. Ideally, a suitable 2m high fence should be provided around the “Playground” equipment to prevent pupils from wandering into a hazardous area.
- ▶ The “Playground” should be adequately secured outside of school hours when the area is unsupervised and to minimise the risk of vandalism.
- ▶ The Disability Discrimination Act applies to play areas. Reasonable provision should be made for inclusion of pupils and staff with a disability, including the visually impaired. The design of the “Playground” should comply with normal Safety Standards and should,

in general, be appropriate to the anticipated age ranges and abilities of the pupils.

2. Play Equipment/Activity Areas

- ▶ Play equipment and surfacing should be in accordance with Safety Standards ISEN1176 and ISEN1177. Where any new equipment is installed this should always conform to ISEN1176. Schools should request that the manufacturer or supplier provide written confirmation of the Standard compliance where relevant. Where existing equipment does not conform to an appropriate Standard, then risk assessment and testing of the equipment should be carried out by The Royal Society for the Prevention of Accidents known as ROSPA, National Fire Protection Association known as NFPA or any other recognised body or organisation. All risk improvements resulting from such assessment/testing should be implemented immediately.
- ▶ It is recommended that Impact Attenuating Surfacing (IAS) should be installed under any play equipment. ISEN1177 requires that a surface with some impact attenuation should be installed under all items of play equipment. For potential falls above 600mm ISEN1177 defines the nature and extent of impact attenuation the surface must have. Schools must ensure that such surfacing is maintained and replaced when required in line with Manufacturers recommendations and guidelines.
- ▶ Schools should ensure that all equipment and surfacing is installed by a competent contractor in accordance with ISEN1176 and ISEN1177. It is recommended that a post-installation inspection is carried out by an independent body, such as ROSPA or other appropriate association.

3. Management

The “Playground” area should be inspected weekly by a competent person, preferably with some appropriate basic training. The inspection should include a general review of the equipment and area to ensure it is clean and well

maintained. In particular the following should be considered:

- ▶ All wooden equipment should be checked for splinters, cracking, built up of vegetation or rusting screws. Metal equipment should not be rusted. Checks should be carried out
 - > To identify any signs of weakening.
 - > on equipment which is fixed to the ground to ensure that bolts are secure and not loose.
 Where equipment is identified as defective it should be immediately taken out of use and either repaired or replaced as appropriate.
- ▶ The surface material should be checked to identify any
 - > loose matting fitting,
 - > surface water build up or
 - > wear and tear by weathering (UV rays as well as rain/snow/ice).
- ▶ Check equipment, fences and gates for objects such as hooks, bolts, sharp or unfinished edges that stick out of equipment and which could injure a pupil or catch clothing causing entanglement or fall. Immediate arrangements must be made to remove or repair such items.

An effective maintenance programme should be put in place to ensure that defects/faults are repaired immediately and that any equipment which cannot be suitably repaired is replaced immediately. Records should be kept of when the defect was noted and repairs took place. An annual inspection by an independent specialist should be undertaken. Finally, an on-going maintenance and risk management programme for improving and up-dating the “Playground” should be implemented.

Remember, taking the appropriate time in planning the layout, nature and extent of any “Playground” and taking into account the above safety recommendations will save effort in the long run and will ensure that the “Playground” is as safe as possible.

Useful websites
www.playireland.ie
www.rospace.com
www.kidshealth.org

Legal Review

We continue our review of some school accidents that have been finalised in the High Court and Circuit Courts in the last 6 months.

Case 1

This claim involved the slip and fall of a four year old pupil in the school corridor. While returning to his classroom in line with all of his classmates, the pupil in this case was carrying a pack of six small cartons of milk. The teacher was at the head of the line and when she heard a scream from behind her, immediately ran back to find the Plaintiff lying on the ground having obviously slipped. She picked him up and carried him back to the classroom where the Principal was summoned and arrangements made to bring the injured boy home. The floor was inspected immediately after the accident and was found to be clean and dry. This incident occurred in 1993 and was not brought to trial until October 2006. Fortunately, the teacher had a clear recollection of events and the school had kept a record of the incident along with a hand written statement made by the teacher at the time. A number of issues were raised in the

Pleadings that the floor was wet due to adverse weather conditions outside, but the locus of the accident was some forty feet from the nearest exit door. The school were also able to prove a cleaning system and coupled with the teachers clear recollection backed up by the written statement, a full defence was presented on the day. The end result was that the Plaintiff withdrew his claim at the doors of the Court.

Case 2

This next claim again involves a slip and fall in a school corridor. On this occasion an employee slipped and fell on an orange peel which had been discarded on the floor. Circuit Court proceedings were brought and a full defence presented. There was no doubt that the accident occurred as alleged. The defence of the school was based on the fact that the Housekeeper was in a position to give evidence that she had inspected the area fifteen minutes beforehand and the area was clean. This would indicate that the orange peel was discarded only minutes before the fall took place. The Insured employed six full-time cleaners whose role is to patrol the schools corridors and clean them when necessary. This would indicate that the corridors would

be regularly checked for spillages or rubbish. Having heard the evidence, the Judge allowed time at the end of the case for discussion and the matter was disposed of for a very small sum inclusive of costs.

Case 3

This case again deals with a slip and fall accident. On this occasion, after school had finished for the day, one of the teachers was walking down a corridor when he slipped and fell on a wet surface. The floor had been washed and no warning cones had been placed around the area or notice given to staff or anyone left on the premises that cleaning had taken place. The teacher in question suffered a very nasty injury. Clearly there was no answer on liability and the matter was allowed proceed for assessment by PIAB and appropriate compensation paid.

Case 4

This final claim was heard in the High Court on the 17th of January 2007. In this case, a five a side football match was arranged during P.E. class and the Plaintiff suffered a fracture to his forearm. It was held outdoor on the basketball court on tarmac. The Plaintiff alleged he was playing in goals but the defence being presented advised that there were no goalkeepers and the "last man back" took that position. The Plaintiff's legal team based their claim on the basis that 1) he was the goalkeeper, 2) the competitive nature of the game, 3) his poor eyesight and 4) the tarmac surface. Following evidence given by two other pupils and the P.E. teacher, it was accepted that there were no goalkeepers, the Plaintiff was wearing his glasses and many such games took place on a daily basis in the school yard at lunch and break times. The Judge found that the Plaintiff sustained the injury when attempting to cross the ball towards the goal, lost his balance and fell injuring his forearm. The Judge stated that this was an accident and therefore dismissed the claim.

Work Experience Programmes



We appreciate that work experience is a very important part of the educational development of a student. The right type of work experience can help prepare a student for his/her future career or at least open their eyes to a life beyond the school walls. This can in turn have a very positive effect on their remaining days in school.

While we recognise the obvious benefit of work experience programs, we also appreciate the burden placed on schools in arranging placements with employers. In this regard we set out below a number of points, which you may find to be of assistance:

- 1 It is important the school request the following information when contacting local employers for support in placing students with them:
 - ▶ business / occupation of the employer,
 - ▶ the type of work the student will be asked to carry out, and
 - ▶ details of safety precautions that will be put in place, including supervision / monitoring of the student when participating on work experience.
- 2 In cases where the parent / student have arranged their own work experience placement, the school should still ascertain the same information as detailed in 1 above.
- 3 The teacher responsible for arranging the work experience program in the school, should be satisfied with the above information before confirming placement with the student and employer.

When an employer confirms agreement to facilitate a student on work experience, the school should follow this up by issuing 'Letter A', which can be either located on our web-site www.allianz.ie/schools or from previous issues of our *Schools Journal*.

Under the Public Liability Section of our Custodian School Protection policy there is an extension providing cover in respect of 'Work Experience'. The cover provided is an indemnity to the school in respect of their legal liability arising from or in any way associated with any work experience schemes organised by them or in which they participate including an indemnity to an employer in respect of the performance of such work by any student of the school. The indemnity provided to the school and the employer is subject to the terms Definitions Conditions Exclusions and limitations of the policy.

In the event the school receives a request to issue a letter confirming cover provided to the employer, as outlined in the previous paragraph, we recommend the school issue 'Letter B', as shown below. The wording of this letter has been recently revised. In consequence thereof please note that 'Letter B' as provided in previous issues

of our Schools Journals should no longer be used. The revised letter is also available on our web-site www.allianz.ie/schools

If you require any additional information in relation to any aspect of this article, please contact our Education Team at 01 613 3966 or your local Allianz Representative.

Letter (B)

"We wish to confirm that under the Public Liability Section of our school insurance policy our Insurer provides an indemnity to the school in respect of our legal liability, as defined in the policy, arising from or in any way associated with any work experience schemes and transition year placements organised by the school or in which we participate, including indemnity to any employer in respect of the performance of such work by any student, subject always to the terms Definitions Conditions Exclusions and limitations of this Section and our Policy".

Engineering Inspections



Is it necessary for schools to have specialist inspections carried out in relation to items of equipment such as passenger lifts and stair lifts ?"

We regularly receive enquiries from schools and other educational entities regarding the necessity to have specialist inspections carried out in relation to items of equipment such as passenger lifts, stair lifts, window cleaning equipment, steam boilers, air receivers/compressors etc

Current legislation requires that, within certain occupations/sectors, all such equipment be appropriately examined and inspected. Properties, which are occupied for Educational and Religious purposes, do not fall within the sectors specified.

Notwithstanding the above, all properties which are used/occupied as a Place of Work fall within the sphere of the Safety, Health and Welfare at Work Act 2005. Under this Act a Place of Work includes any place, land, or other location at, in, upon or near which work is carried on, whether occasionally or otherwise. The owners of properties occupied as a Place of Work have a duty of care, inter alia, to make sure all plant is safe to use. Following the principles of adopting "best practice", specialist engineering inspections form the most appropriate methodology of achieving this.

Plant for which an Insured (school) would have a duty of care include (but not limited to) the following:

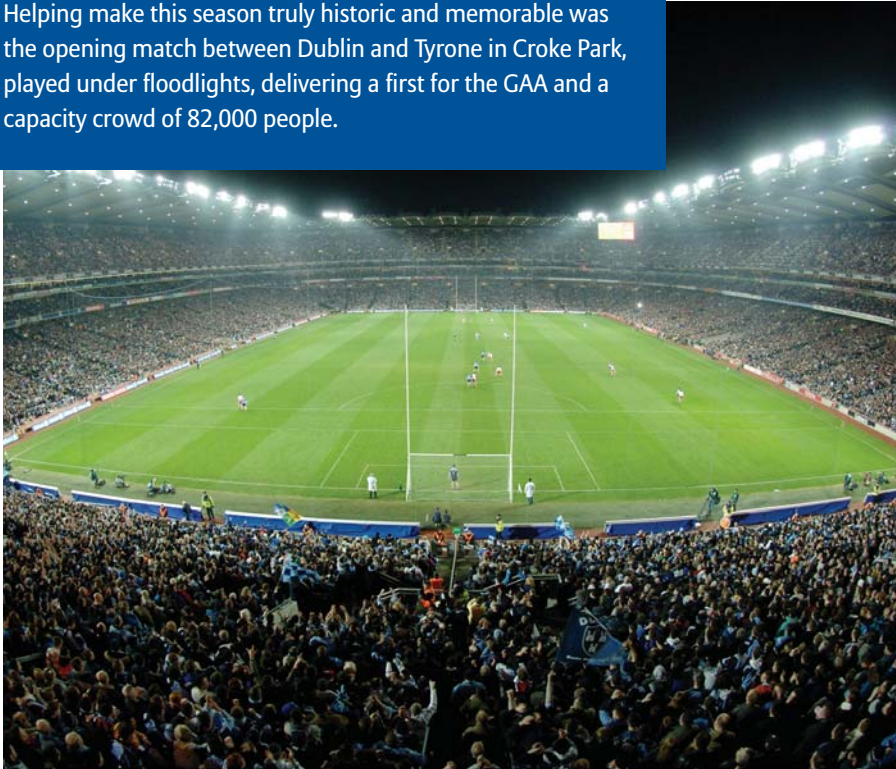
Equipment	Inspection Frequency
Passenger lifts	6 Months
Stair Lifts	6 Months
Tail Lifts	6 Months
Window cleaning cradles/equipment	6 Months
Steam Boilers/Receiver	12/14 Months
Air Receivers / Compressors	26 Months

As part of our on-going commitment to provide schools with a superior insurance and related service, Engineering Inspections can be carried out by specialist Allianz personnel at competitively priced levels of premium, thus enabling schools to meet their responsibilities under current Health & Safety legislation.

If you have any queries in connection with the foregoing or if you would like to obtain a quotation for Engineering Inspection please contact our Education Team at 01 613 3966 or your local Allianz Representative.

Lights! Camera! Action!

The Allianz Leagues 2007 kicked off on February 3rd last. Helping make this season truly historic and memorable was the opening match between Dublin and Tyrone in Croke Park, played under floodlights, delivering a first for the GAA and a capacity crowd of 82,000 people.



“Ride-on” Mowers

Many schools have purchased “ride-on” mowers for use in maintaining lawns, playing fields and large grassed areas.

Whilst these mowers are used primarily on private property, they fall within the definition of mechanically propelled vehicles under the Road Traffic Act (RTA). Consequently, the owner is legally required to effect motor insurance for any “ride-on” mower, which is used in an area deemed to constitute a public place as defined in the Road Traffic Act (RTA).

Under the RTA a public place means:

- a** any public road, and
- b** any street, road or other place to which the public have access with vehicles whether as of right of way or by permission and whether subject to or free of charge.

The fact that these vehicles may not

need to be taxed does not exempt the owners from their obligations under the RTA.

The Custodian School Protection policy specifically excludes liability which is compulsorily insurable in accordance with any Road Traffic Act(s). It is therefore essential that separate Motor insurance cover is effected for “ride-on” mowers.

Allianz offer a specially tailored policy for schools incorporating cover for third party, fire, theft and accidental damage risks at very competitive terms.

If you require any further information please contact our Education Team at (01) 613 3966 or your local Allianz representative. You can also download a proposal form from our dedicated school website at www.allianz.ie/schools

Allianz “Challenges in Education” Conference

There was a studied air to the conference facility of the Armagh City Hotel on Thursday 9 November as Principals, Bursars and Chairs of Boards of Governors from a wide selection of schools across Northern Ireland gathered for the inaugural Allianz “Challenges in Education” Conference.

Allianz recognises that the educational environment is in a period of rapid change and that both problems and solutions seem to be in a constant state of flux. We consider that our position as the leading insurer of schools in Northern Ireland bestows on us a responsibility to provide access to sound risk management information. Schools can have difficulty in locating appropriate, professional and school-focussed legal advice. Data is often disparate, unavailable or involves time consuming searches. Too often, it is only found ‘after the event’, i.e. when the school is involved in the contention of a legal action.

To address this issue, and as a tangible demonstration of its commitment to support schools and their governing bodies, Allianz brought together top local and national speakers for a day to deliver presentations on a range of legal and risk management related issues.



Mayor of Armagh Cllr William Irwin with Head of Allianz in Northern Ireland, Adrian Toner

Pupil Personal Accident. Covered by Allianz.

Everyone loves to see children running and playing, but every year an estimated 16,000 children receive hospital treatment following an accident in school, on the road, or at home. And the resulting medical bills can be very expensive.

As the leading provider of insurance for schools in Ireland, Allianz provides extensive accident cover for pupils both in and out of school. For a very reasonable amount, pupils can be covered whilst travelling to and from school as well as during school activities, and for a few Euro extra, this cover can be extended to 24 hours a day.

You can't stop children being children, but you can insure they are well protected with Allianz.

This insurance is available through participating schools or parents' associations.

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Email: schools@allianz.ie Website: www.allianz.ie/schools

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