



Five things to remember when responding to a critical incident

No one likes to think about worst case scenarios, but when it's your employees' welfare, customer safety or reputation at risk you can't afford not to.

A critical incident is an incident, or series of incidents which:

- Significantly affects your ability to carry on your business
- Damages or threatens to damage the health and safety and/or well-being of your employees or service users, neighbouring community, or the public at large
- Threatens the environment and/or damages your business and its reputation

Actions taken and decisions made during the early stages of a critical incident or emergency situation will significantly impact upon the outcome for your business and your people, so a swift and effective response can minimise the disruption and reputational risk to which your business will be exposed.

Our Critical Incident Team has over 40 years' experience in supporting businesses and their people in times of crisis. We have worked alongside clients as they:

- Implement international product recalls
- Manage data security breaches
- Respond to devastating environmental incidents and workplace fatalities

Our experts share with you five issues you may need to consider...

1. Lead from the front

When a crisis occurs, your stakeholders want to see your senior management team take swift and effective action. A common mistake made by many businesses in an emergency situation is to deploy an 'all hands on deck' approach when managing its response to the critical incident. A streamlined, well-organised and confident response that is led from the front will help to establish and maintain confidence in times of trouble.

When a crisis hits, make sure that you identify the right people to navigate your business and its people through your emergency situation. You should set up a dedicated Critical Incident Response Team (CIRT) to manage your response. They will be led by your nominated Chair (and deputy), armed with the requisite authority to make quick and difficult decisions. Your Chair's immediate action will include:

- Identifying the members of your CIRT and convening an initial meeting, using telephone/video conference facilities where necessary
- Instructing legal advisers to attend the scene of the critical incident if it is appropriate to do so, and issuing immediate instructions
- Ensuring the critical incident is reported to external parties as required without delay (and whenever possible within 24 hours), e.g. your regulators and stakeholders including your insurers

Once convened, your CIRT will lead your response to the critical incident. During its initial meeting, its considerations will include:

- Identifying any immediate actions that you may need to take to control/stop the critical incident, e.g. stop work, stop production, etc.
- Identifying any immediate measures that you need to take to prevent a re-occurrence, e.g. instigating a product recall or isolating a piece of machinery
- Assessing the likely impact of the critical incident upon your business and its reputation
- Implementing a communications plan for managing internal communications and liaison with press/media
- Implementing a strategy for responding to a criminal investigation by the police and/or regulators in liaison with legal advisers

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Delay and procrastination by your business at this critical time could be costly, and may limit your ability to minimise the disruption and reputational risk to which your business will be exposed as matters progress. You must take control of the crisis as soon as it occurs and, thereafter, act in a timely, measured and decisive manner.

2. Do not forget your regulators!

Reporting

When a crisis occurs, it is not unusual for businesses to focus their immediate concerns upon their customers, employees and the media. However, if you are a regulated business it is imperative that you meet your statutory reporting obligations. A failure to do so could put your business at risk of financial penalties and create greater brand damage as matters progress.

Preserve evidence

You will need to ensure that all relevant documentation and information (electronic and hard copy) relating to the circumstances of the critical incident is preserved and safely secured for future reference. Access to that documentation and information should be restricted and authorised by your Chair.

Central point of contact

In the event that the critical incident triggers a criminal investigation by the police and/or your regulators, you should appoint a single point of contact within your business to manage your response to any such investigation. That is likely to be your Chair in liaison with legal advisers.

Creating evidence

Internal communications: It is important to remember that all internal communications including reports, emails and minutes of meetings will need to be disclosed to investigators upon request, and could be used in evidence against your business and/or its individuals in a future prosecution.

Internal investigation

Your CIRT will wish to commission an internal investigation into the circumstances of the critical incident, with a view to identifying lessons to be learned and any legal liabilities arising. Our team members have extensive experience in incident investigation, and can work with your CIRT to conduct a thorough

and comprehensive investigation under legal privilege, and maximise learning outcomes from the critical incident.

Our expert legal team will help you navigate through the regulatory process, and work with you towards achieving the best possible outcome for your business and its individuals.

3. Communicate

Media relations are at the heart of crisis management. Immediately following a critical incident you should be in a position to implement a clear and well-thought-out communications strategy for your internal and external communications. This will be channelled through a nominated spokesperson (likely to be your Chair) who has the requisite skills and experience. In all of your communications you must be composed, confident, credible and honest.

Whilst it is essential that you take control of a crisis the moment that it occurs, it is not necessarily the case that you will engage with the media straight away. Your priority will be to establish the facts. Communicating regularly and accurately will be a real challenge as you may be working with incomplete facts, more particularly in the immediate aftermath of the critical incident. However, keeping channels of communication open will be essential.

Ignore social media at your peril. Your communications strategy will include setting up early warning systems to identify online activity.

Remember – if the critical incident triggers a criminal investigation by the police and/or regulators, communications will need to be conducted in liaison with the investigators.

Our expert legal team will work alongside you and your media advisers to implement a measured and effective communications strategy.

4. Don't be afraid to ask for help

At this time of crisis, those who lead your business will need the support and assistance of experts who specialise in crisis management and, in particular, responding to a criminal investigation by police and/or regulators.

Our experienced team of solicitors and barristers will be on hand 24 hours a day, seven days a week to support you at this difficult time. We can also put you in touch with crisis communications consultants and other experts who can help you mitigate the risk to your business, your employees, and your customers.

At Blake Morgan, we work with senior management teams across a wide range of sectors to help them identify areas of potential risks to their business...

5. "It won't happen to us"

Even in the most successful businesses with the most effective management systems, critical incidents can occur. The implications for a business following a critical incident can be devastating for its people, its business and its reputation.

At Blake Morgan, we work with senior management teams across a wide range of sectors to help them identify areas of potential risks to their business, and devise crisis management plans to identify the actions necessary to manage and co-ordinate their response appropriately, should they ever be hit by a crisis situation. Indeed, for some of our clients, members of our team have been named in, and formed part of, the CIRT.

One final suggestion is that it is unwise to wait until you have an incident to find out whether your planned response is effective. We would welcome the opportunity to work with you to develop a 'dry run' to make sure that all those involved know how to react in the event of a real incident.



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