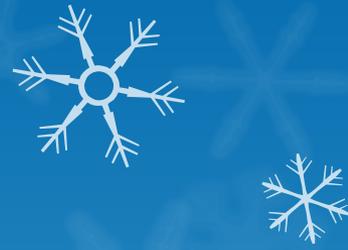


Winter Weather Policy Management

Steve Parton

FCII, Chartered Insurer, 'DipNEBOSH', CMIOSH



Objectives

Raise awareness of the need to develop documented Winter policy management arrangements (Less than 5% of business have detailed policies and risk assessments developed!).

Ensure that sufficient pre planning of Winter management is considered.

Highlight the civil liability implications due to lack of action of by getting it wrong.

Consider a number of Winter related issues that may not have been considered.

Legislation

Employers are required “so far as is reasonably practicable” to ensure the safety and health of employees and others and to conduct a suitable and sufficient risk assessment which cover means of access and egress.

The Workplace (Health Safety & Welfare) Regulations require surfaces of floors and traffic routes to be free from any hole, slope, uneven or slippery surface. This includes the reference to minimising risk from snow and ice which may involve gritting, salting, snow clearing and closure of some access routes, particularly higher hazard ones including external stairs, access ladders and roof walkways

Legislation continued

- Claimants seeking compensation for injuries will bring a civil action for negligence and their legal representatives may also cite breach of statutory duties.
- Claimants may also bring an action under the **Occupiers Liability Act 1957**. This act enshrines common law duty of care to legitimate visitors and in some circumstances extended to trespassers by the 1984 Act
- All business premises have areas such as car parks and walkways that may be used by visitors. If there is a hazard present that is known to the occupier then they have a duty to take reasonable care to **make that hazard safe and provide reasonable warning of the danger**.



Duty of Care – What is reasonable/

- Unfortunately, there is no easy example of this.
- Each case will be considered on it's merits and the outcome will be dependent upon the judgement of the courts (if a case goes that far!)
- Successful defence of a claim depends on the defendant demonstrating that they have taken all reasonable measures to mitigate the risk of slips and falls.
- What is reasonable – The following slide may give some indication as to what may be considered reasonable.

What is reasonable – Car park example

- To clear a car park completely of snow during inclement weather is not considered practical.
- However, when the weather abates it would be considered reasonable for the main walkways to be cleared and salted/gritted in icy conditions.

An effective Winter policy and controls

- Is there policy/section within your health & safety policy developed about keeping access and egress routes in good order and clear of ice, snow and vegetation (wet leaves and algae)?
- Are weather forecasts checked daily & weather warnings acted upon?
- Are accurate records kept of checks and inspections carried out. This would be important for defending or repudiating a claim. Are photographs or video taken?
- Is there an arrangement to grit walkways and access routes? When and how often and is this detailed?
- Is there an arrangement to reduce the size of and grit and clear car parks?

Example continued

- Is there adequate resource in terms of salt, shovels and other equipment?
- Are employees issued with suitable PPE if involved with clearing activities – Is this recorded?
- Are employees trained as to what is required in these circumstances?
- Are these instructions recorded?
- Are digital photographic records taken of cleared areas, this is particularly important for periods of poor weather?

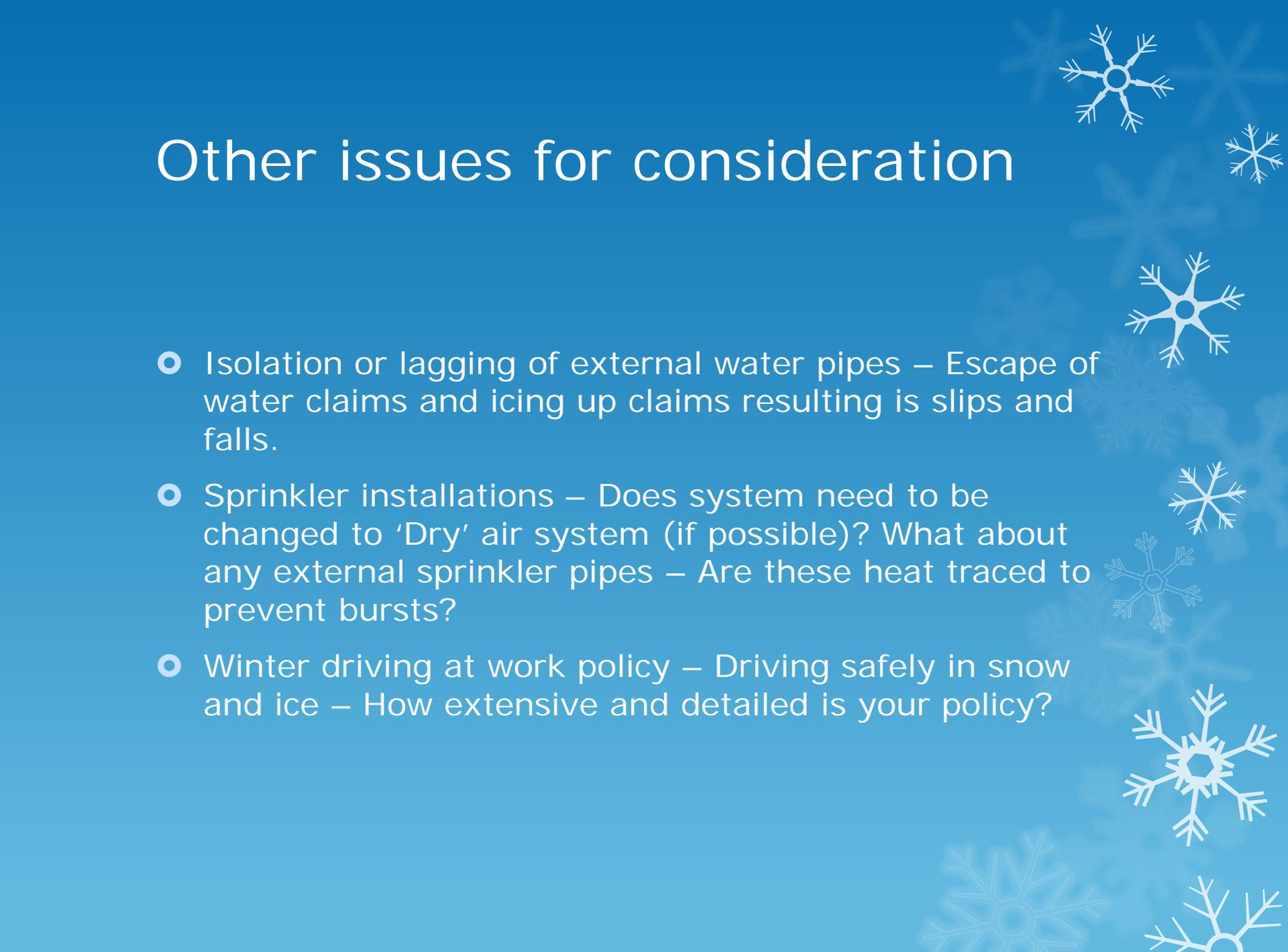
Example continued

- Are any incidents reported, investigated and photographic evidence obtained Is CCTV available?
- Is there adequate lighting?
- If a sub-contractor is used to provide snow clearance and gritting services make sure you decide on a minimum service level agreement regarding the provision of services within a particular time frame. Keep records of this agreement and monitor implementation and performance.
- Is there a back up plan in the event of a 'no show' by the contractor – if so, what does this entail.

An example 'real life' claim

- Winter 2013
- Visiting HGV driver in Policyholder's yard slipped on ice and snow resulting in a broken shoulder and wrist injury.
- Policyholder found to be negligent as no gritting or controls has been implemented.
- Claims settled for a sum of £11,000 - £4,500 to injured party with Solicitor costs and charges amounting to £6,500 !!

Other issues for consideration



- Isolation or lagging of external water pipes – Escape of water claims and icing up claims resulting in slips and falls.
- Sprinkler installations – Does system need to be changed to 'Dry' air system (if possible)? What about any external sprinkler pipes – Are these heat traced to prevent bursts?
- Winter driving at work policy – Driving safely in snow and ice – How extensive and detailed is your policy?

Be prepared for Winter!!
Thank you and Happy Christmas
to all BHSEA members

