

Legislation and Risk Assessments

Level 3 Health and Safety in the Workplace

Introduction

- Health and safety are important issues for all employers and employees, whether you work on a high-risk construction site or in a low-risk office.
- Having the necessary skills and knowledge to carry out your work safely and to manage risks effectively is vital, and will provide your business with many benefits.
- This course aims to give an in-depth guide to health and safety, covering all areas of risk that you may have to deal with in the workplace.
- In this module, you'll learn about employer and employee responsibilities under current health and safety legislation, including details on how to carry out a risk assessment.

Course Aims

By the end of this course, learners will:

- Understand what is required of employers and employees under current health and safety legislation.
- Understand the importance and significance of workplace risk assessments.
- Know why it's essential to report and investigate accidents.
- Understand the roles that managers, supervisors and personal protective equipment play in regards to health and safety.
- Know how to deal with employee welfare and wellbeing, motivation, staff training, first aid and emergency procedures.
- Understand the risks associated with the workplace and work equipment; fire and explosion; electricity; working at height; vehicles; violence, drugs and alcohol; hazardous substances; noise and vibration; and manual handling.

Topics to be Covered

The topics covered in this section are:

- Why is health and safety important?
- Useful definitions
- Health and safety law
- Law enforcement
- Risk assessments
- The competent person

Why is Health and Safety Important?

Health and safety issues can affect anyone, including employees, customers, suppliers, visitors and members of the public. The Health and Safety Executive (HSE) statistics state that, in 2015/16:

- 1.3 million working people suffered from a work-related illness.
- 144 workers were killed at work.
- 72,702 other injuries to employees were reported under RIDDOR.
- 621,000 injuries occurred at work, according to the Labour Force Survey.
- 30.4 million working days were lost due to work-related illness and workplace injury.
- £14.1 billion was the estimated cost of injuries and ill health as a result of working conditions.

If your workplace's health and safety standards are low, then you are at risk of:

- High employee absence rates.
- A high turnover of staff.
- Reduced productivity, as employees worry about their safety.
- More accidents and injuries, and extra downtime to deal with as a result.
- Unhappy and unhealthy staff.
- The threat of legal action if accidents and injuries have been caused by workplace activities.
- Reduced standing amongst customers, suppliers and partners.
- Reduced reputation for corporate responsibility amongst investors, customers and communities.

Useful Definitions

There is a range of terminology that you need to be familiar with in order to understand how health and safety can be improved in your workplace. The HSE provides the following definitions:

- Hazard - a hazard is anything that may cause harm, such as chemicals, electricity, working from ladders, an open drawer etc.
- Risk - the chance, high or low, that somebody could be harmed by a hazard, together with an indication of how serious the harm could be.
- Control measure - an action that prevents, or adequately controls, exposure to a hazard so as to prevent injury or ill health.
- Accident - an event that results in injury or ill health.
- Near miss - an event not causing harm, but has the potential to cause injury or ill health. Near misses are sometimes referred to as dangerous occurrences.

Health and Safety Law

All health and safety in the workplace is covered by specific legislation. This can be split into two categories:

1. **Primary legislation** - this comprises of Acts of Parliament, essentially the Health and Safety at Work etc. Act 1974.
2. **Secondary legislation** - this is made up of Statutory Instruments (SIs), often referred to simply as 'regulations'. All regulations are industry or topic specific, such as the Work at Height Regulations 2005 or the Health and Safety (Display Screen Equipment) Regulations 1992.

Approved Codes of Practice (ACoP) are also issued by the Health and Safety Executive to give businesses practical guidance on compliance with the law. Failure to comply with an ACoP is not an offence, but it is considered best practice to follow the advice given.

The Health and Safety at Work etc. Act 1974 requires all employers to prepare, implement and revise a safety management system that includes:

- A written health and safety policy, where there are five or more employees. If there are fewer than five then the policy doesn't need to be recorded, but it's still recommended.
- Assessment of the risks to employees, customers and any other people who could be affected by their activities.
- Arrangements for the effective planning, organisation, control, monitoring and review of preventative and protective measures.
- Ensuring employees have access to competent health and safety advice.
- Consultation with their employees about their risks at work and current preventative and protective measures.

As well as employers, every employee in the business also has health and safety responsibilities.

Under the Health and Safety at Work etc. Act 1974, employees have a duty to take reasonable care of their own health and safety, and that of other people who may be affected by their work.

Under the Management of Health and Safety at Work Regulations 1999 (MHSWR), employees must inform their employer of any danger to health and safety posed by a work activity. They must also inform their employer of any shortcomings in the protection arrangements.

Employees further have a duty to co-operate with the employer's health and safety arrangements under the MHSWR.

Law Enforcement

Enforcement officers are members of the HSE and they have the power to:

- Enter any workplace.
- Take statements.
- Instruct that an incident or accident is left undisturbed.
- Issue notices of improvement and prohibition.
- Take the organisation to court.

Notices of improvement will be served when it's found that a legal requirement is not in place. The organisation will be given a certain amount of time to improve the situation.

Prohibition notices are given when, in the opinion of the inspector, there is serious and imminent danger arising from a workplace or work activity that needs to be stopped.

Failure to comply with health and safety law can have serious consequences for both organisations and individuals. Penalties include:

- Fines.
- Imprisonment.
- Disqualification from being a director.

Fines and imprisonment can apply to all managers as well as business owners and directors.

Furthermore, under the Corporate Manslaughter and Corporate Homicide Act 2007, an offence will be committed if an organisation's lack of duty of care results in a death. The maximum penalty for this is imprisonment and an unlimited fine.

Under which legislation must workers inform their employer if they recognise a danger to health and safety posed by a work activity?

- The Approved Code of Practice
- The Management of Health and Safety at Work Regulations 1999**
- The Health and Safety at Work etc. Act 1974
- The Notice of Improvement

Risk Assessments

Under the Management of Health and Safety at Work Regulations 1999, all employers must manage the health and safety risks in their workplace.

To do this, they need to think about what in the workplace might cause harm to people, and decide whether enough is being done to prevent harm. This is known as a risk assessment.

Once the risks have been identified, the employer then needs to decide how to control them and ensure that the appropriate control measures are in place.

The law does not expect employers to remove all risks, but instead to protect people by putting in place measures to control the risks that are found.

The main steps of a risk assessment are:

- Identify the hazards.
- Decide who might be harmed and how.
- Evaluate the risks and decide on precautions.
- Record your findings and implement them.
- Review your assessment and update if necessary.

If five or more people are employed, significant findings of the risk assessment must be recorded in writing. If there are fewer than five then this is not compulsory but it's still recommended.

The assessment must be reviewed and updated if there is a significant change to the workplace or work activity, or reason to believe it is no longer valid.

Step 1: Identify the Hazards

The first step of the risk assessment process is to identify the hazards. Techniques for identifying hazards include:

- Workplace observation.
- Obtaining feedback from employees.
- Checking manufacturers' instructions or data sheets.
- Reviewing accident and ill health records.

Some common workplace hazards that you can look out for include:

- Uneven or slippery surfaces.
- Moving vehicles and machinery.
- Electrical installations and equipment.
- Fire and explosion.
- Hazardous substances.
- Noise.
- Manual handling.
- Display screen equipment.

Occupational, environmental and human factors influence behaviour at work and can affect health and safety.

Occupational factors relate to the job and include the nature of the task, the workload, the working environment, the design of displays and controls, and the procedures.

Environmental factors relate to the organisation and include work patterns, workplace culture, resources, communication, training and leadership.

Human factors relate to the individual and include competence, skills, personality, attitude and risk perception.

You will need to use occupational, environmental and human factors in any inspections, investigations and audits relating to health and safety.

Step 2: Decide Who Might be Harmed and How

This step involves looking at each specific hazard and then identifying the people who may be harmed by them. These people may be:

- Specific groups of employees.
- Customers.
- Visitors or members of the public.

Some employees have particular requirements, such as young workers, expectant mothers, people with disabilities, part-timers and sub-contractors.

Having identified who may be harmed, there is then a requirement to identify the type of injury or ill health that they may suffer due to the hazard. For example:

- Cuts and lacerations.
- Respiratory problems.
- Musculoskeletal injuries.
- Broken bones.
- Fatal or disabling injuries.

Step 3: Evaluate the Risks

Having identified who may be harmed by the hazards and how, you then need to evaluate the risks and decide whether the hazard can be eliminated.

To do this, you first need to identify any control measures that are already in place. If these are insufficient, then consider adopting additional controls until the risk is reduced to 'as low a level as is reasonably practicable'.

If changes need to be made, how can you control the risks so that harm is unlikely? Options may include:

- Trying a less risky option.
- Preventing access to the hazard.
- Re-organising work to reduce exposure.
- Issuing personal protective equipment.
- Involving and training staff to ensure the precautions will work in practice and don't introduce new hazards.

Step 4: Record Your Findings and Implement Them

After you have considered your control measures, the fourth step of the risk assessment process involves recording the results of the risk assessment.

It is recommended that your risk assessment findings are written down, even though where there are fewer than five employees this is not required by law.

You need to be able to show that:

- A proper check was made.
- You have considered who might be affected.
- You have dealt with all the obvious significant hazards, taking into account the number of people who could be involved.
- The precautions are reasonable and the remaining risk is low.
- Staff or their representatives have been involved.

Step 5: Review and Update

The final step in the process is to check on a regular basis whether there have been any changes in the workplace that may affect your risk assessment. For example:

- Are there any improvements still to be made?
- Has there been employee feedback?
- Have you learnt anything from accidents and near misses?
- Has any new equipment or machinery been introduced?
- Do you have any new employees that require training?

The Competent Person

Employers have overall responsibility for ensuring that risk assessments are undertaken, either by themselves or by another competent person, i.e. someone identified as having sufficient knowledge, skills, experience and aptitude.

The competent person may be a current employee, provided that they have been suitably trained, or an external health and safety professional. Whoever it is, the competent person must:

- Understand HSE guidance and how to apply it in the workplace.
- Understand the purpose of a risk assessment and know how to carry one out.
- Know which information needs to be obtained.
- Make estimates, take measurements where necessary and record results.
- Draw up an action plan to control the risks and then put the plan into action.
- Appreciate their own limitations and know when to seek help.

Exercise

Are the following statements true or false?

A hazard is anything that may cause harm	<input checked="" type="radio"/> True	<input type="radio"/> False
Employers are legally required to assess the risks in the workplace and put in place a plan to control the risks	<input checked="" type="radio"/> True	<input type="radio"/> False
The law expects employers to completely remove all risks from the workplace	<input type="radio"/> True	<input checked="" type="radio"/> False
A risk assessment is made up of five key steps	<input checked="" type="radio"/> True	<input type="radio"/> False
Only employers and managers can carry out risk assessments	<input type="radio"/> True	<input checked="" type="radio"/> False

Summary

Health and safety issues can affect anyone in any type of workplace. If health and safety measures aren't taken seriously, and the law isn't complied with, then businesses are at risk from a high employee turnover, more accidents, unhappy staff and the threat of legal action.

Legislation requires employers to prepare, implement and revise a safety management system. This means assessing the risks to employees and anyone else who may be affected with a thorough risk assessment, carried out by a competent person.

In this module you learnt that the main steps of a risk assessment are:

- Identify the hazards.
- Decide who might be harmed and how.
- Evaluate the risks and decide on precautions.
- Record your findings and implement them.
- Review your assessment and update if necessary.