

A8 Health and safety management

Management of Health and Safety at Work Regulations 1999

The Management of Health and Safety at Work Regulations 1999 detail the legal requirements and duties of employers in relation to health and safety in the workplace.

The duties under the Management Regulations build upon (and more clearly define) the general duties laid down in the Health and Safety at Work Act 1974.

These duties often overlap with more specific regulations because of their wide-ranging nature. Where duties overlap, compliance with the more specific regulation will normally be sufficient to comply with the corresponding duty in the Management Regulations.

For example, the Control of Substances Hazardous to Health Regulations 2002 (COSHH) require employers to assess the risks from exposure to hazardous substances. An assessment made for the purposes of COSHH does not need to be repeated for the Management Regulations.

Risk assessment (Regulation 3)

Employers and the self-employed must make a “suitable and sufficient” assessment of the risks to the health and safety of their employees while they are at work and people not in their employment which arise in connection with their work.

“Suitable and sufficient” is not defined in the regulations. In practice it means that:

- The risk assessment should identify the risks arising from or in connection with work
- The level of detail in the risk assessment should be proportionate to the risk
- Once the risks are assessed, insignificant risks can usually be ignored

Principles of prevention (Regulation 4)

Where, as a result of a risk assessment, an employer implements any preventive and/or protective measures it must do so on the basis of the principles laid down in the regulations.

Preventive and protective measures refer to the measures identified in a risk assessment as being necessary to comply with requirements or prohibitions imposed under any relevant statutory provision, i.e. they are measures you must take to protect your employees and others.

The principles are laid down in Schedule 1 of the Management Regulations and are:

- Avoid risks altogether
- Evaluate the risks which cannot be avoided by carrying out a risk assessment
- Combat risks at source
- Adapt work to the individual, especially with regards to the design of workplaces, the choice of work equipment and methods
- Take advantage of technological progress which may improve safety
- Replace the dangerous with the non-dangerous or the less dangerous
- Develop an overall prevention policy
- Give collective protective measures priority over individual protective measures
- Give appropriate instruction to employees

Health and safety arrangements (Regulation 5)

Employers must ensure that appropriate arrangements are in place for the effective planning, organisation, control, monitoring and review of the preventive and protective measures. Employers with five or more employees must record these arrangements.

Employers must have arrangements in place to cover areas such as:

- Fire safety
- First aid
- Accident reporting and recording
- Provision and use of personal protective equipment
- Stress management
- Consultation with employees

Health surveillance (Regulation 6)

Employers must ensure that employees are provided with health surveillance that is appropriate to the risks to their health and safety as identified by an assessment. Specific regulations identify circumstances in which health surveillance is required, e.g. COSHH.

Health surveillance should be introduced where:

- There is an identifiable disease or adverse health condition relating to the work
- Valid techniques exist to detect indications of the disease or condition
- There is a reasonable likelihood that the disease or condition may occur
- Surveillance is likely to further the protection of the employees concerned

A competent person (e.g. nurse or doctor) should determine the level and frequency of health surveillance.

Where health surveillance is carried out, records must be kept for the individual's employment period. Certain regulations state specific periods that records should be kept; for example, under COSHH, records must be kept for 40 years. Under the Access to Health Records Act 1990, employees have a right to access their health records.

Health and safety assistance (Regulation 7)

Employers must appoint one or more competent persons to assist them in ensuring that the necessary measures are taken to comply with the requirements and prohibitions imposed upon them by the law. If more than one competent person is appointed they must co-operate with one another. The employer must ensure that those appointed are given sufficient time and resources to fulfil their role.

A person is regarded as competent where they have sufficient training, qualifications, knowledge, skills and experience to enable them to properly assist.

The law makes it clear that competent persons should be appointed from within the organisation where the necessary competence exists. Where a contractor is appointed, the regulations make it clear that the responsibility rests with the employer, and the contractor must be provided with sufficient information to enable him to carry out his task.

Procedures for serious and imminent danger and danger areas (Regulation 8)

Employers must:

- Establish procedures to be followed in the event of serious and imminent danger
- Nominate a sufficient number of competent people to implement those procedures
- Ensure that no employee has access to any area to which it is necessary to restrict access on health and safety grounds, unless the employee concerned has received adequate health and safety instruction

The procedures must detail arrangements to cover the following situations:

- If employees are exposed to serious and imminent danger they must be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it
- To enable the people concerned to stop work and immediately proceed to a place of safety in the event of them being exposed to danger
- Except in exceptional cases, employees are to be prevented from resuming work in any situation where there is still a serious and imminent danger

What may constitute serious and imminent danger will vary from one organisation to another. Some organisations may find their only danger is from fire, while others, like a chemical plant, will have more complex problems to manage.

Contacts with external services (Regulation 9)

There is a requirement for employers to arrange contacts with emergency services specifically in relation to first aid, emergency medical care and rescue work.

There should be a clearly established procedure for employees to follow in the event of serious or imminent danger. They should know whom to contact, where to go, what to do and how to do it without putting themselves or others at additional risk.

Where there is a shared workplace, procedures must be co-ordinated and the various employers must co-operate.

Where certain groups of workers have to enter an emergency area (e.g. police, fire-fighters) special protective measures must be taken.

Information for employees (Regulation 10)

Employers must provide their employees with comprehensible and relevant information on the:

- Risks to their health and safety identified by the assessment
- Preventive and protective measures
- Procedures for serious and imminent danger
- Identity of the competent people nominated by them

If the employee is a child, the employer must provide the parent or guardian with relevant information using a reliable method of communication.

Co-operation and co-ordination (Regulation 11)

If two or more employers share a workplace they must work together. This will require some degree of co-ordination and co-operation.

All employers and self-employed people should satisfy themselves that the arrangements are adequate. Employers should ensure that all their employees, especially the competent persons, are aware of, and take full part in, the arrangements.

Where there is no controlling employer, those on the site must agree joint arrangements for health and safety, such as appointing a health and safety co-ordinator. This does not absolve individual employers from their legal responsibilities.

Persons working in host employers (Regulation 12)

Employers must ensure that information is provided to the employer of any employees who are working in their workplace. The information should cover:

- The risks to those employees' health and safety arising out of or in connection with the work
- The measures taken by the employer in compliance with the requirements and prohibitions imposed upon him under the relevant statutory provisions

This section relates particularly to contractors working on site. The employer must carry out a risk assessment in relation to them and they, in turn, must carry out a risk assessment in relation to the hazards they will be bringing on site. There must be a system for the exchange of information.

Capabilities and training (Regulation 13)

Employers must ensure that their employees are provided with adequate health and safety training:

- When they start their job (induction training)
- When they are exposed to new or increased risks

Health and safety training should take place during normal working hours. If it is necessary to arrange training outside of these hours, it should be treated as overtime. Re-training should be undertaken periodically to ensure continued competence.

Employees' duties (Regulation 14)

Employees' duties include:

- Using machinery, equipment, dangerous substances, transport equipment, means of production or safety devices as trained and instructed
- Informing their employer or the health and safety representative of any work situation considered to represent a serious or imminent danger to health and safety
- Reporting any shortcomings in the employer's health and safety protective arrangements

Temporary workers (Regulation 15)

Prior to commencing work, employers must provide any person who they have employed under a fixed-term contract of employment with comprehensible information on any:

- Special occupational qualifications or skills to carry out the work safely
- Health surveillance required by any of the relevant statutory provisions

Risk assessment in respect of new or expectant mothers (Regulations 16 - 18)

A "new or expectant mother" is defined as an employee who is pregnant, has given birth during the previous six months or is breastfeeding.

Regulation 16: The risk assessment should include an assessment of the risks to women of a childbearing age. If the work could involve risk to the health and safety of a new or expectant mother, or to that of her baby, an employer must alter her working conditions or hours of work. If it is not reasonable to alter the working conditions or hours of work, or if it would not avoid the risk, the employer must suspend the employee from work for so long as is necessary to avoid the risk. The suspension must be at her normal rate of pay.

Regulation 17: If employed on a night shift, the employee may produce a medical certificate to say her health or that of her baby may be affected. If so, she must be found suitable alternative employment or suspended on full pay.

Regulation 18: It is the responsibility of the new or expectant mother to notify the employer.

Protection of young people (Regulation 19)

A “child” is defined as a person who has not reached school leaving age. Generally, this is someone under the age of 16.

A “young person” is someone under the age of 18.

Young people must be protected from any risks to their health and safety that may result from their lack of experience, knowledge or maturity. They should not be engaged in work which:

- Is beyond their physical or psychological capacity
- Involves exposure to harmful agents
- Involves harmful exposure to radiation
- Involves exposure to extreme temperatures, noise or vibration
- Involves the risk of accidents due to their insufficient attention to safety or lack of experience or training

The employer must carry out a risk assessment before a child or young person starts work to determine the risks and assess the control measures in place. If a significant risk remains, a child should not be employed to do this work. A young person could where:

- It is necessary for their training
- They are supervised by a competent person
- The risk is reduced to the lowest level possible

Employers' liability (Regulation 21)

Employers prosecuted for an offence under these regulations cannot use the defence that obligations were not met because of any act or omission by employees or competent people. In practice, the enforcing authority will treat each case on its own merits. Where an employer has taken all reasonable steps to ensure the competence of employees or others appointed as competent people, this will be taken into account.

Civil liability (Regulation 22)

The Management of Health and Safety at Work Regulations 1999 were amended in 2003 which enabled employees to claim damages from their employer, in civil action, where they suffer injury or illness as a result of the employer breaching these regulations. A breach of statutory duty imposed on the employer by these regulations confers no right of civil action for persons not in his employment.

Health and safety management systems

There are a number of models on which to base an effective health and safety management system. *Managing for Health and Safety* (HSG65), issued by the HSE, is a practical guide for directors, managers, health and safety professionals and employee representatives who want to improve health and safety in their organisations. It is based on the 'Plan, Do, Check, Act' model.

Plan

- Think about where you are now and where you need to be
- State what you want to achieve, how you will achieve it and who will be responsible for what
- Decide how you will measure performance (leading as well as lagging indicators)
- Consider fire and other emergencies
- Co-operate with anyone who shares your workplace and co-ordinate plans with them
- Identify any specific legal requirements that apply to you and plan for changes

Do

- Assess the risks and decide what more needs to be done to manage the risks
- Decide what the priorities are and identify the biggest risks
- Decide on the preventive and protective measures needed and put them in place
- Involve workers and communicate so that everyone is clear on what is required
- Provide adequate resources, including competent advice where needed
- Provide the right tools and equipment to do the job and keep them maintained
- Train and instruct, to ensure everyone is competent to carry out their work
- Supervise to make sure that arrangements are being followed

Check

- Measure your performance
- Make sure that your plan has been implemented
- Assess how well the risks are being controlled and if you are achieving your aims
- Investigate the causes of accidents, near misses and ill-health

Act

- Review your performance
- Learn from accidents, near misses, errors and ill-health, including from other organisations
- Revisit plans, policy documents and risk assessments to see if they need updating
- Take action on lessons learned, including from audit and inspection reports

Health and safety policies

A health and safety policy provides an opportunity for the organisation's most senior management to demonstrate its commitment to:

- Recognising health and safety as an integral part of the business
- Achieving a high level of health and safety performance
- Providing adequate resources for health and safety
- Setting and publishing health and safety objectives
- Defining responsibilities for health and safety at all levels
- Ensuring engagement and consultation with employees

A successful health and safety policy can assist an organisation by:

- Demonstrating senior management commitment to health and safety
- Promoting a positive health and safety culture within the organisation
- Identifying risks and controlling them with adequate means
- Promoting continuous improvement through quality initiatives
- Reducing financial losses caused by preventable unplanned events

Legal requirements of the policy

Section 2(3) of the Health and Safety at Work Act 1974 states:

“Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all his employees.”

Employers with five or more employees have a statutory duty under the HASWA to have a written health and safety statement. This statement must be specific to the organisation and must set out a general policy for protecting the health and safety of employees at work, together with the organisation and arrangements for implementing the policy.

The statement must:

- State the general policy on health and safety
- Describe the organisation and arrangements for carrying out the policy
- Be brought to the notice of all employees
- Be revised whenever appropriate (revisions must be brought to the attention of all employees)

The HSE has published a helpful guide (INDG - 259) entitled “An Introduction to Health and Safety” which gives further advice on health and safety policies, including a policy template.

Policy content

An effective health and safety policy is generally considered to have three main sections:

- The general statement of policy otherwise known as the ‘statement of intent’
- The organisation and those responsible for ensuring health and safety
- The arrangements to be implemented for health and safety

Policy content: statement of intent

The statement of intent should set out how health and safety is managed within the organisation. It sets the scene and outlines the strategy by stating who does what and how and when it is done.

The statement of intent should:

- State that health and safety is a management responsibility
- Place duties on management
- Indicate the duties of employees and request their full co-operation
- Set out the period of policy review
- Identify the person ultimately responsible for health and safety
- Be signed by the most senior manager

Policy content: organisation

The ultimate responsibility for health and safety rests with the employer. Many of the duties may be delegated to managers and supervisors and the policy should show clearly how these duties are allocated. Key individuals and their posts should be named and made accountable. Their duties and responsibilities should be defined accordingly.

Policy content: arrangements

The arrangements within the policy describe the systems and procedures for ensuring employees' health and safety by considering foreseeable danger in everyday working practices and taking into account workplace practices, local conditions, circumstances, attitudes and behaviour.

Some of the arrangements that should be incorporated or referred to within a health and safety policy include:

General arrangements:

- An overview of the organisation's risk assessments
- Emergency procedures
- Fire procedures
- First aid procedures
- Safe systems of work
- Permit to work systems
- Accident and injury procedures
- Training programmes and needs
- Monitoring
- Procedures for others visiting the organisation

Specific arrangements may include:

- Particular hazards generated or encountered during maintenance work
- Work carried out by contractors
- Plant shut down periods
- Shift change over periods
- Power cuts
- Equipment failure

Bringing the policy to the notice of employees

The health and safety policy must be brought to the attention of all employees. The manner in which this should be done is not specified in the HASWA. Copies of the policy, or appropriate extracts from it, should be made available to all employees so they have knowledge of the requirement for health and safety in the workplace.

Reviewing the policy

The law requires revision of the health and safety policy 'as often as may be appropriate.' The HSE advises organisations to review their policy annually. Revision may be necessary if:

- The nature of the work changes or new plant or new hazards are introduced into the workplace
- New regulations, approved codes of practice or guidance notes are published and are relevant to the activities of the organisation
- There are personnel or duty changes

Measuring effectiveness

To measure the effectiveness of a health and safety management system it is important to gather accurate statistics about the state of the system. If the data gathered is unreliable or inaccurate the monitoring process is undermined.

Business performance is normally measured in terms of positive achievements such as profits and growth. However, in the area of health and safety, measurements tend to be based on negative issues, such as injuries and ill-health - measures of failure. This can have implications for measurement as health and safety improvements can lead to fewer failures and therefore fewer outcomes to measure.

Certain statistics may not be a true indication of whether or not risks are being suitably controlled. For example, the number of people operating a machine may be reduced due to technological improvements, and this may show as a reduction in accident numbers for the machine. However, the risks may still be there.

Health and safety statistics can be erroneous for many reasons, including:

- Under reporting - not reporting accidents in order to maintain good performance statistics
- Consequences don't always reflect the true severity of the risk (a cut finger could have been an amputated arm)
- An incident may not always lead to an accident

Statistics and trends

The main purpose of measuring health and safety performance is to gather information on the processes and systems within an organisation to see how effective they are and whether further control measures are required to ensure the health and safety of employees.

Monitoring of reactive measures tends to deal with incidents that have already happened - what has already gone wrong. This form of monitoring is looking largely at failures of policy and should highlight areas for improvement. The HSE's formulae for calculating annual injury rates are:

Injury frequency rate:

$$\frac{\text{Number of injuries in the period}}{\text{Total hours worked during the period}} \times 1,000,000$$

Injury incidence rate:

$$\frac{\text{Number of reportable injuries in financial year}}{\text{Average number employed during year}} \times 100,000$$

Proactive and reactive approaches to health and safety monitoring

Proactive approaches to health and safety monitoring include:

- **KPIs** Key performance indicators (KPIs) are a series of targets detailing outcomes to be achieved and the timescale in which they are to be completed. By reviewing KPIs on a regular basis it is possible to monitor progress.
- **Inspections** Regular inspections of the workplace and risk control measures will:
 - Identify hazards
 - Identify whether existing controls are effective
 - Identify corrective measures required
- **Audits** A health and safety audit assesses the effectiveness of the health and safety management system.
- **Testing of equipment** Regular checks and tests of workplace equipment will uncover uncontrolled risks or newly occurring risks. Tests will also highlight areas where risk control measures are insufficient.
- **Employee opinions** Feedback from employees is a vital part of compiling information. Due to their direct contact with risk control measures they can provide working knowledge of any inadequacies.

Reactive approaches to health and safety monitoring include:

- **Accident statistics** Provide information on shortfalls in health and safety systems. Accident statistics should not be used as the sole measure of performance.
- **Ill-health statistics** Provide data on ill-health which can be used to investigate areas of risk. It is important to note that ill-health and absence from work may not be directly related to the true nature of the risks.
- **External enforcement** In the case of serious accidents/incidents external enforcing bodies may be involved. In incidents of this nature it is important to follow any guidance given by the enforcing body.
- **Employee complaints** Inadequacies highlighted by employee complaints must be investigated fully and all necessary changes implemented. Employee complaints can be viewed as proactive monitoring if no loss had occurred when the complaint was made.
- **Property damage** Damage to property from workplace accidents can be used as a measure in determining whether an organisation's health and safety policy and/or procedures are dealing with workplace risks.

It is important to use a combination of proactive and reactive monitoring techniques.

Tour

A health and safety tour is an unscheduled 'walk-round' of a workplace. It is a general appraisal, rather than a detailed inspection of a particular area. It provides management with a snapshot of working conditions and practices. It also allows employees to see visible management interest in health and safety. Obvious hazards should be recorded and appropriate action taken as soon as possible to control the risks. Tours should be undertaken at regular intervals, typically every three months.

Inspection

A health and safety inspection is a detailed examination of a particular work place, department, unit, area, machine or process. It seeks to ensure that every potential hazard is properly identified and action taken. The inspection may be limited to particular aspects of a company operation, for example it may only concern itself with the storage of highly flammable liquids or hazardous substances. Alternatively it can be very wide ranging, more like an audit. Inspections should be carried out more frequently than audits or surveys, typically once a month.

In order to be effective, inspections should:

- Be objective
- Check against a standard
- Examine specific issues
- Generate action for improvement
- Be discussed with the person responsible for taking action

Sampling

The purpose of sampling is to identify defects on defined routes in relation to (for example) housekeeping, workplace equipment, protective equipment, unsafe acts and unsafe conditions. Sampling does require some degree of preparation but, once established, lends itself to a relatively straightforward exercise at set intervals.

Survey

A survey is not as complex as an audit. It is a thorough and detailed examination of a narrow field of activity and may include areas of concern revealed by a more detailed audit. A survey is typically used to make a thorough health and safety check on new or refurbished premises, on the installation or modification of plant, equipment and processes before they are commissioned. Surveys can form part of the overall monitoring plan for a particular area, for example a local exhaust ventilation system that needs to be checked every 14 months.

Audit

A health and safety audit is a critical examination of each component of the health and safety management system to assess performance, verify effectiveness and reveal shortcomings.

Ideally, a health and safety audit should be conducted annually and should include every part of the company. That is, every operating unit, location or department should be included in the audit. Such a task requires considerable planning and a team of trained and competent auditors.

It often makes sense to conduct a 'rolling audit.' The whole company is audited, department by department or unit by unit, over the course of a year. This is probably the best approach for a health and safety officer working on their own or with very little help.