

## Activity 5 : - Risk Assessment

See also resources for activity 4 page 14

### Risk -Controlling the risks in the workplace

As part of managing the health and safety of your business you must control the risks in your workplace. To do this you need to think about what might cause harm to people and decide whether you are taking reasonable steps to prevent that harm. This is known as risk assessment and it is something you are required by law to carry out. **If you have fewer than five employees you don't have to write anything down.**

**A risk assessment is not about creating huge amounts of paperwork , but rather about identifying sensible measures to control the risks in your workplace.** You are probably already taking steps to protect your employees, but your risk assessment will help you decide whether you have covered all you need to.

Think about how accidents and ill health could happen and concentrate on real risks – those that are most likely and which will cause the most harm.

For some risks, other regulations require particular control measures. Your assessment can help you identify where you need to look at certain risks and these particular control measures in more detail. These control measures do not have to be assessed separately but can be considered as part of, or an extension of, your overall risk assessment.

### How to assess the risks in your workplace

#### Identify the hazards

One of the most important aspects of your risk assessment is accurately identifying the potential hazards in your workplace. A good starting point is to walk around your workplace and think about any hazards. In other words, what is it about the activities, processes or substances used that could injure your employees or harm their health?

When you work in a place everyday it is easy to overlook some hazards, so here are some tips to help you identify the ones that matter:

**Check manufacturers' instructions** or data sheets for chemicals and equipment as they can be very helpful in spelling out the hazards and putting them in their true perspective

**Look back at your accident and ill-health records** - these often help to identify the less obvious hazards

**Take account of non-routine** operations (eg maintenance, cleaning operations or changes in production cycles)

**Remember to think about long-term hazards to health** (e.g. high levels of noise, exposure to harmful substances, common causes of work-related mental ill health)

**Visit the [HSE website](#).** HSE publishes practical guidance on hazards and how to control them

There are some hazards with a recognised risk of physical harm, for example working at height, working with chemicals, machinery, asbestos and of [work-related mental ill-health](#) e.g. where demands, control and support for individuals are not properly managed in the workplace. Depending on the type of work you do, there may be other hazards that are relevant to your business.

## Decide who might be harmed and how

Think how employees (or others who may be present such as contractors or visitors) might be harmed. Ask your employees what they think the hazards are, as they may notice things that are not obvious to you and may have some good ideas on how to control the risks.

For each hazard you need to be clear about who might be harmed; it will help you identify the best way of controlling the risk. That doesn't mean listing everyone by name, but rather identifying groups of people (eg 'people working in the storeroom' or 'passers-by').

Remember:

Some workers have particular requirements, for example new and [young workers](#), [migrant workers](#), [new or expectant mothers](#), [people with disabilities](#), temporary workers, contractors, homeworkers and lone workers (see [Your workers](#))

Think about people who might not be in the workplace all the time, such as visitors, contractors and maintenance workers

Take members of the public into account if they could be hurt by your activities

If you share your workplace with another business, consider how your work affects others and how their work affects you and your workers. Talk to each other and make sure controls are in place

Ask your workers if there is anyone you may have missed

## Evaluate the risks

Having identified the hazards, you then have to decide how likely it is that harm will occur; ie the level of risk and what to do about it. Risk is a part of everyday life and you are not expected to eliminate all risks. What you must do is make sure you know about the main risks and the things you need to do to manage them responsibly.

Generally, you need to do everything 'reasonably practicable'. This means balancing the level of risk against the measures needed to control the real risk in terms of money, time or trouble. However, you do not need to take action if it would be grossly disproportionate to the level of risk.

Your risk assessment should only include what you could reasonably be expected to know - **you are not expected to anticipate unforeseeable risks.**

Look at what you're already doing, and the control measures you already have in place. Ask yourself:

- Can I get rid of the hazard altogether?
- If not, how can I control the risks so that harm is unlikely?

Some practical steps you could take include:

- trying a less risky option
- preventing access to the hazards
- organising work to reduce exposure to the hazard
- issuing protective equipment
- providing welfare facilities such as first aid and washing facilities
- involving and consulting workers

Improving health and safety need not cost a lot. For instance, placing a mirror on a dangerous, blind corner to help prevent vehicle accidents is a low-cost precaution considering the risks. Failure to take simple precautions can cost you a lot more if an accident does happen.

[Involve your workers](#), so that you can be sure that what you propose to do will work in practice and won't introduce any new hazards.

If you control a number of similar workplaces containing similar activities, you can produce a 'model' risk assessment reflecting the common hazards and risks associated with these activities.

You may also come across 'model' assessments developed by trade associations, employers' bodies or other organisations concerned with a particular activity. You may decide to apply these 'model' assessments at each workplace, but you can only do so if you:

- satisfy yourself that the 'model' assessment is appropriate to your type of work
- adapt the 'model' to the detail of your own work situations, including any extension necessary to cover hazards and risks not referred to in the 'model'

## Record your significant findings

Make a record of your significant findings - the hazards, how people might be harmed by them and what you have in place to control the risks. Any record produced should be simple and focused on controls.

**If you have fewer than five employees you don't have to write anything down.** But it is useful to do this so you can review it at a later date, for example if something changes. If you have five or more employees you are required by law to write it down.

Any paperwork you produce should help you to communicate and manage the risks in your business. For most people this does not need to be a big exercise - just note the main points down about the significant risks and what you concluded.

An easy way to record your findings is to use a [risk assessment template](#). When writing down your results keep it simple, for example 'Fume from welding: local exhaust ventilation used and regularly checked'.

A risk assessment must be 'suitable and sufficient', ie it should show that:

- a proper check was made
- you asked who might be affected
- you 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
- you involved your employees or their representatives in the process

Where the nature of your work changes fairly frequently or the workplace changes and develops (eg a construction site), or where your workers move from site to site, your risk assessment may have to concentrate more on a broad range of risks that can be anticipated.

Take a look at our [selection of example risk assessments](#). They show you what a completed risk assessment might look like for your type of workplace. You can use these as a guide when doing your own.

We have also developed [online risk assessment tools](#), to help employers complete and print off their own records.

If your risk assessment identifies a number of hazards, you need to put them in order of importance and address the most serious risks first.

Identify long-term solutions for the risks with the biggest consequences, as well as those risks most likely to cause accidents, work-related physical or mental ill-health. You should also establish whether there are improvements that can be implemented quickly, even temporarily, until more reliable controls can be put in place.

Remember, the greater the risk the more robust and reliable the control measures will need to be.

## **Review your risk assessment and update if necessary**

Few workplaces stay the same. Sooner or later, you will bring in new equipment, substances and procedures that could lead to new hazards. So it makes sense to review what you are doing on an ongoing basis, look at your risk assessment again and ask yourself:

- Have there been any significant changes?
- Are there improvements you still need to make?
- Have your workers spotted a problem?
- Have you learnt anything from accidents, near misses, work-related ill-health (physical and mental) reports, sickness absence data or employee surveys?

Make sure your risk assessment stays up to date.

Many organisations, where you are confident you understand what's involved, can do the assessment themselves. You don't have to be a health and safety expert.

When thinking about your risk assessment, remember:

The **risk** is the chance, high or low, that somebody could be harmed by these and other hazards, together with an indication of how serious the harm could be.

Source: - <http://www.hse.gov.uk/risk/controlling-risks.htm>

Other sample documents and guides are available from the HSE website.

Below is an extract from the Health and safety at work act 1974. It lists the key points of the act and is designed as a guide to the legislation.

## **Health and Safety at Work Act 1974 (Main Points)**

### **2. General duties of employers to their employees**

1. It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.
2. Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular:
  - a. The provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
  - b. arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  - c. the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;
  - d. so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
  - e. the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

3. 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.
4. Regulations made by the Secretary of State may provide for the appointment in prescribed cases by recognised trade unions (within the meaning of the regulations) of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under subsection (6) below and shall have such other functions as may be prescribed.
5. . . .
6. It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to cooperate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.
7. In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in [subPage 4 section (4)] above, to establish, in accordance with regulations made by the Secretary of State, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

### **3. General duties of employers and self-employed to persons other than their Employees**

1. It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.
2. It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.
3. In such cases as may be prescribed, it shall be the duty of every employer and every self employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.
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#### **4. General duties of persons concerned with premises to persons other than their employees**

1. This section has effect for imposing on persons duties in relation to those who—
  - a. are not their employees; but
  - b. use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there, and applies to premises so made available and other non-domestic premises used in connection with them.
2. It shall be the duty of each person who has, to any extent, control of premises to which this section applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.
3. Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to:
  - a. the maintenance or repair of any premises to which this section applies or any means of access thereto or egress therefrom; or
  - b. the safety of or the absence of risks to health arising from plant or substances in any such premises; that person shall be treated, for the purposes of subsection (2) above, as being a person who has control of the matters to which his obligation extends.
4. Any reference in this section to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not).<sup>32</sup>

#### **5. General duty of persons in control of certain premises in relation to harmful emissions into atmosphere.**

1. Subject to subsection (5) below, it shall be the duty of the person having control of any premises of a class prescribed for the purposes of section 1(1)d) to use the best practicable means for preventing the emission into the atmosphere from the premises of noxious or offensive substances and for rendering harmless and inoffensive such substances as may be so emitted
2. The reference in subsection (1) above to the means to be used for the purposes there mentioned includes a reference to the manner in which the plant provided for those purposes is used and to the supervision of any operation involving the emission of the substances to which that subsection applies



3. Any substance or a substance of any description prescribed for the purposes of subsection (1) above a noxious or offensive shall be a noxious or, as the case may be, an offensive substance for those purposes whether or not it would be s apart from this subsection.
4. Any reference in this section to a person having control of any premises which is a person having control of the premises in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not) and any duty imposed on any such person by this section shall extend only to matters within his control.
5. The foregoing provision s of this section shall not apply in relation to any process which is a prescribed process as from the date which is the determination date for that process.
6. For the purposes of subsection (5) above, the 'determination date' for a prescribed process is:
  - a. in the case of a process for which an authorisation is granted, the date on which the enforcing authority grants it, whether in pursuance of the application or, on an appeal, of a direction to grant it'
  - b. in the case of a process for which an authorisation is refused, the date of the refusal or, on an appeal, of the affirmation of the refusal.
7. In subsections (5) and (6) above "authorisation", "enforcing authority" and "prescribed process" have the meaning given in 1 of the Environmental Protection Act 1990 and the reference to an appeal is a reference to an appeal under section 15 of that Act.

## **6. General duties of manufacturers etc as regards articles and substances for use at work**

1. It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground equipment:
  - a. To ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work;
  - b. To carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
  - c. (To take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and



about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when it is being dismantled or disposed of; and

- d. To take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

1A. It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment-

- a. To ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public;
- b. To carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
- c. To take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and
- d. To take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

2. It shall be the duty of any person who undertakes the design or manufacture of any article for use at work [or of any article of fairground equipment] to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.

3. It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work [or who erects or installs any article of fairground equipment] to ensure, so far as is reasonably practicable, that nothing about the way in which [the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above].

4. It shall be the duty of any person who manufactures, imports or supplies any substance—
  - a. To ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which section 4 above applies;
  - b. To carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph;
  - c. To take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when the substance is being disposed of; and (b) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.]
5. It shall be the duty of any person who undertakes the manufacture of any [substance] to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the substance may give rise [at all such times as are mentioned in paragraph (a) of subsection (4) above].
6. Nothing in the preceding provisions of this section shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of those provisions.
7. Any duty imposed on any person by any of the preceding provisions of this section shall extend only to things done in the course of a trade, business or other undertaking carried on by him (whether for profit or not) and to matters within his control.
8. Where a person designs, manufactures, imports or supplies an article [for use at work or an article of fairground equipment and does so for or to another] on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be

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safe and without risks to health [at all such times as are mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (1A) above], the undertaking shall have the effect of relieving the first mentioned person from the duty imposed [by virtue of that paragraph] to such extent as is reasonable having regard to the terms of the undertaking.

(8A) Nothing in subsection (7) or (8) above shall relieve any person who imports any article or substance from any duty in respect of anything which—

- a. In the case of an article designed outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or
- b. In the case of an article or substance manufactured outside the United Kingdom, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.

9. Where a person (“the ostensible supplier”) supplies any [article or substance] to another (“the customer”) under a hire-purchase agreement, conditional sale agreement or credit sale agreement, and the ostensible supplier—

- a. Carries on the business of financing the acquisition of goods by others by means of such agreements; and
- b. In the course of that business acquired his interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person (“the effective supplier”), the effective supplier and not the ostensible supplier shall be treated for the purposes of this section as supplying the article or substance to the customer, and any duty imposed by the preceding provisions of this section on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

10. For the purposes of this section an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of paragraph (a) of subsection (1), (1A) or (4) above has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.

## **7. General duties of employees at work**

It shall be the duty of every employee while at work:

- a. To take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and
- b. As regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to cooperate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

## **8. Duty not to interfere with or misuse things provided pursuant to certain provisions**

No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

## **9. Duty not charge employees for things done or provided pursuant to certain specific requirements**

No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

## **The right to “stop the job”**

Under new ss.22A and 57A of the EP(C)A, any employee will have the right not to be dismissed or subjected to any detriment on the following grounds:

- That the employee left, or proposed to leave, his or her workplace, in circumstances of serious and imminent danger which the employee could not reasonably be expected to have averted;

Or

- That the employee took, or proposed to take, appropriate steps to protect himself or herself or other employees in circumstances of serious and imminent danger. Whether those steps were appropriate will have to be judged by reference to all the circumstances including, in particular, the employee's knowledge and the facilities and advice available at the time. An employer will have a defence under this subsection if it can be shown that it was, or would have been, so negligent for the employee to take those steps, that a reasonable employer would have treated the employee as that employer did.

## **Protection for employees with Health and Safety responsibilities**

Similarly employees who have some specific health and safety duty, either under statute or by agreement, will have the right not to be dismissed or subjected to a detriment in the following circumstances:

- If the employee has been designated by the employer to carry out activities in connection with preventing or reducing risks to health and safety of employees at work, and the ground for the detrimental treatment or dismissal was that the employee carried out, or proposed to carry out, those activities;

Or

- If the employee was a health and safety representative or member of a safety committee in accordance with arrangements established under any enactment or by reason of the employer's knowledge, and the ground for the detrimental treatment or dismissal was that he or she performed, or proposed to perform, any of his or her functions in that capacity.

## **No Qualifying Conditions**

There will be no qualifying hours of work or periods of service for these rights.

## **Unfair Dismissal**

A dismissal under any of the above provisions will be automatically unfair (in that the "reasonableness" provisions of s.57(3) of the EP(C)A will not come into play), except where the employer succeeds in a defence of "negligence" by the employee. Similarly, s.59 of the EP(C)A will be amended so that selection of redundancy on any of the above grounds (that is, both stopping the job and carrying out health and safety activities or duties) will be for an "inadmissible" reason, and therefore automatically unfair.

## **Remedis**

An employee who is subjected to a detriment or is dismissed in breach of these provisions will be able to complain to an employment tribunal, where it will be for the employer to show the reasons for its actions. If the tribunal upholds the complaint, it will have to make a declaration and may award compensation to the employee. This compensation will mirror that available in cases of action short of dismissal or dismissal on trade union grounds and, in the case of dismissal, will therefore be subject to a minimum, and may include a "special award". Employees will also be able to apply for "interim relief" pending the full hearing or an employment tribunal complaint.