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## Risk Assessment

### Unite Safety Standards

**Use your rights.** Safety reps have legal rights to information and to be consulted about any workplace H&S matters. **No assessment, no work.** Employers should not ask anyone to undertake work unless that particular job or function has been the subject of a risk assessment and the worker(s) expected to do the job has been informed of how to do the job safely. All workers have the right to refuse work that presents “a serious and imminent danger”.

**Inspect.** Inspections by safety reps, surveys, “risk” mapping, or reviews of sickness absence and accident patterns and workplace health surveillance can identify the jobs causing the problems.

**Get support.** Unite Regional Officers, backed by the Unite H&S Unit which deal with thousands of H&S queries each year, are there to help.

**Training.** Unite safety reps training means that many reps have more H&S knowledge than their managers.

### What is risk assessment?

The risk assessment process is simply an examination of the work and workplace to identify what could cause harm to people (a hazard); and an assessment of the chance, high or low, that somebody could be harmed by the hazards identified, together with an indication of how serious the harm could be (the risk). On the basis of this assessment a decision is made as to what prevention or control measures should be taken to prevent the possibility of harm.

Workplace risks should never be seen as inevitable and if risk assessments are done correctly – and employers implement them fully – then it means that hazards are identified and removed or considerably reduced. It is essential that Unite safety reps are involved and consulted on the process of risk assessment, and they should always be asked to comment on assessments, although the responsibility for doing a risk assessment lies fully with management. Many employers seem to complicate or fail to understand risk assessment. It is really about asking and answering a few basic questions.

- **What could go wrong?**
- **What are we doing to prevent it?**
- **Is it enough?**
- **What else should we be doing?**

There is no single method of risk assessment that covers all types of workplaces and different employers will use different methods. However, every method involves decisions being made on how acceptable a risk is. This, whatever management may say, is not a scientific process but instead is one based on the value that they place on the safety and health of their workers. It is therefore important to understand the method of risk assessment an employer is using and ensure that the process deals with the issues that concern members and reflect the real risks in the workplace, including long-term health risks. Although there is no single correct way of doing risk assessments, what is important to remember as a safety rep is that, whatever process is used, the risk assessments should be systematic and thorough and must look at what actually happens in the real workplace – not just at what the employer thinks happens.

**This means no real risk assessment can take place unless the people that actually do the jobs and who have a practical understanding of the hazards and risks involved have been involved.**

## What the law says

There is a general duty on all employers to ensure the health, safety and welfare at work of all their employees. This is laid out in the Health and Safety at Work Act 1974. This duty is expanded in later regulations which spell out the specific requirements on employers to undertake risk assessments for every job and process, and to act on them. The main duty to conduct a risk assessment is in the Management of Health and Safety at Work Regulations 1999 (Management Regs), which places a legal duty on all employers to carry out risk assessments. Where there are five or more workers employed the employer must record the main points of the assessment.

The Management Regs require all employers and self-employed people to assess the risks created by their undertaking so as to identify the measures they need to have in place to comply with their duties under health and safety laws. This makes the Management Regs risk assessment provisions wide-ranging and all-embracing. In a nutshell, no employer can comply with the law unless they have done a comprehensive and suitable risk assessment. However big or small, however safe they may consider their workplace to be, unless there has been a suitable risk assessment conducted then the employer is in breach of the law. The Management Regs lay down what your employer must do:

- Make a suitable and sufficient assessment of the risks to the H&S of employees and others who may be affected (such as contractors or the public).
- Specifically cover risks to certain groups, in particular pregnant women and young people.
- Where there are five or more employees, keep a **written** record of the findings of the assessment and any groups of employees particularly at risk.
- Identify and then introduce the preventive and protective measures needed to improve workplace H&S.
- Have arrangements for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.
- Review the assessment if there is any reason to believe that it is no longer valid (e.g. if there have been changes in the way work has been done, such as new work processes or equipment). The employer should also review the risk assessments after any injury, near miss or ill health caused by work.
- Provide any health surveillance identified in the risk assessment.
- Establish procedures to be followed in the event of serious and imminent danger.
- Provide H&S information, instruction and training for all employees.
- Have competent H&S assistance. This can either be in-house or using an external advisor.

The guidance to the Management Regulations also recommends that management consult with workers on the risk assessment. In addition, there is a general requirement under the Safety Reps Regs for the employer to consult with safety reps. Unite safety reps should always be consulted on risk assessments.

There are many other regulations which require a particular risk assessment to be done. These include regulations on chemicals, noise, manual handling, display screen equipment, personal protective equipment, asbestos, work at heights, and fire safety. In most cases an employer will meet the requirements of the other regulations by conducting just one risk assessment and it is not usually necessary to produce different risk assessments for each individual regulation – so long as they are clear that they are complying with each set of regulations.

Different employers will use different systems. It is important, therefore, that reps are aware of, and understand, the method of risk assessment their employer uses. Employers should be providing risk assessment training for all safety reps. The HSE have produced a number of example risk assessments in different workplaces, mainly covering sectors with smaller employers like retail, but also including areas like call centres, warehouses and office-based businesses. These can be found on the HSE website <http://www.hse.gov.uk/risk/casestudies/index.htm>

**Dynamic risk assessment** – This term is often used to describe the day-to-day judgments that are sometimes made in respect of health and safety. It is argued that they cannot be written down because they are about making specific judgments in a certain situation. They are certainly not a substitute for formal risk assessment and can only be used to complement a risk assessment where someone is appropriately trained. In many cases dynamic assessments are simply an excuse for not producing a formal assessment. They are sometimes used wrongly to “get round” an existing assessment.

## Suitable and sufficient

The law states that an employer’s risk assessment must be “suitable and sufficient”. To be “suitable and sufficient” the risk assessment has to identify all the hazards and decide whether they have the potential to cause harm in the

workplace. Employers have to familiarise themselves with the hazards and risks through using Health and Safety Executive (HSE) guidance, materials available from manufacturers, suppliers, trade bodies and professional associations, as well as from employees and trade union safety reps. If necessary they should also consult outside expert advice. The risk assessment must be systematic, comprehensive and address what actually happens in the workplace, not what the employer says should happen.

### **Competent persons**

The Management Regulations say that an employer must appoint “competent persons” to assist them. Unite believes that, for most organisations, it is best to have the “competent persons” employed directly within the organisation rather than using outside consultants who may have no real knowledge of the workplace. In fact, the regulations state that if a “competent person” is already employed then that person must be used rather than an outside body or consultant. When an employer does use an outside consultant they often end up with unnecessary and costly paperwork or a process that is too complex, or unsuitable for that workplace.

There is no simple definition of what a “competent person” is and it will vary from employer to employer. The HSE says that ‘competent people’ should have a knowledge and understanding of:

- the work being assessed
- the principles of risk assessment and prevention of risk
- up-to-date health and safety measures; and
- how to identify hazards at work.

In addition they should be able to:

- identify health and safety issues
- assess the need for action
- design, develop and implement strategies and plans
- check the effectiveness of these strategies and plans
- promote health, safety and welfare advances, and good practice
- know their limitations and when to call for others with specific skills and expertise.

Risk assessment must also take account of workers with disabilities or long-term health conditions. The HSE has produced detailed advice to help employers ensure that risk assessments cover workers with disabilities, while at the same time not discriminating against them. Employers have often used health and safety as an excuse for not employing disabled people in certain areas by claiming they may be a ‘fire risk’ or that their epilepsy may put them at risk in the workplace. In fact, it is important that risk assessment is seen as a way of protecting disabled people rather than preventing them from work. Employers should never make assumptions about the health and safety implications of a person with a disability, as even if it does make a difference to the workplace risks, the risk can usually be controlled through simple adjustments or changes.

### **Hazard identification**

While most risk assessment methods are fairly effective at identifying physical hazards such as those related to electrical safety, chemical hazards, fire safety, etc., they may be less good at dealing with risk factors that arise from issues such as lone working, shift working, or the effect of work organisation on stress or the threat of violence. It is therefore important that safety reps ensure that the method used covers not only physical hazards but also tasks, organisational factors, and varying locations, including off-site work or home working. It is more likely that physical hazards alone will be identified if an employer only uses a form with a list of hazards on it supplied by a trade body or from the internet. In order to identify other hazards, the employer needs to look at injury and sickness records to see what problems have been reported in the past. They also have to talk to workers and safety reps – it is not enough to simply walk around and tick boxes.

### **Assessing the risk**

Once the hazards have been listed, the employer has to assess the risk. This is extremely subjective and there is no right or wrong approach. The regulations simply say that the method used must be “suitable and sufficient”. What is suitable and sufficient to an employer may not be suitable and sufficient to a worker. Although most systems are simple and easy to use they can be limited if they do not take into account the likelihood of an injury or illness occurring, or the numbers exposed to the hazard. Furthermore, more sophisticated number grid systems are often very poor at identifying occupational health issues, as opposed to specific safety risks. Although risk assessments can

generate a lot of paperwork it is a very imprecise science and many of the decisions made about levels of risk reflect little more than the view of the person doing the assessment, which is then presented as fact. Safety reps should feel that they can always challenge assessment assumptions.

### **Risk assessment to risk management**

Risk assessment is about identifying risks that need to be tackled in the workplace and prioritising them. In itself it is just a paper exercise. The other key part of the exercise is deciding what action will be taken to remove or reduce the risks identified. Decisions over whether to take action and how quickly action should be taken is completely subjective, and often more down to cost than anything else.

Safety reps must be aware of the limitations of this process and use their rights to challenge any decisions they do not agree with. In evaluating risks and deciding whether to take action the employer is essentially putting a value on a person's health. No system will ever be able to remove all risk; instead what it will attempt to do is to reduce the risk to what the employer believes is an acceptable level. In law this should be "as low as is reasonably practical". However, what is reasonable to management may not be reasonable to the workers who face the risks. The way management makes decisions on what to do following a risk assessment is often based on cost. All systems do this to some extent, and some of the more hazardous industries are open about it. They will compare the cost to the company of a worker dying against the cost of introducing safety measures. Despite the fact that many employers make decisions on this basis, the law is quite clear, they must reduce the risk to "as low as is reasonably practicable". This does not mean what is affordable; it means a balance between the size of the risk and the size of the 'sacrifice' (in time, trouble and money) to prevent the risk. Only if the cost is grossly out of proportion to the risk has the employer done what is 'reasonably practicable'.

Safety reps must therefore try to understand and question the assumptions that are being made over whether or not action should be taken. They should be able to challenge the decisions on what measures to take after a risk assessment – even if the decisions have been made apparently 'scientifically'.

Safety reps should also ensure that employers do not try to ignore some of the lower-level risks by concentrating on hazards that are likely to cause a fatality. 75 per cent of all work-related sickness absence is caused by musculoskeletal disorders and stress-related illnesses. Because employers often concentrate on controlling physical hazards, health issues such as stress, dust, and repetitive injuries are often not prioritised, despite the fact that they are likely to affect more people.

### **Prioritising prevention**

The first aim of risk management should always be to remove the hazard. Unfortunately employers often forget this and see their goal as controlling hazards. Again, the law is clear, with the Management Regulations laying down principles for prevention that must be followed when deciding what to do about potential hazards. This means, where possible, the first step must always be to remove the hazard altogether. Only if that is not possible should management look at how to control the hazard. This must be done in a certain order.

Management will first have to look at reducing the risk, eg by using a less hazardous process or chemical. If that is not possible then they should prevent access to the hazard, such as by guarding. If that is not possible then they should try to organise work to remove or reduce exposure to the hazard and finally, if no other control methods work, and as a last resort, they should issue personal protective equipment such as hearing protection, goggles, footwear, etc. Unfortunately many employers go straight to providing personal protective equipment rather than removing or reducing the hazard by other means.

The Management Regulations also state that employers should adapt the work to the individual rather than the other way round. This is particularly the case when designing workplaces, but employers should always use risk assessment to see whether it is possible to improve work organisation by alleviating monotonous work or stressful processes. The control measures should also look at issues around training and information for employees and the provision of welfare facilities.

### **Further Information**

HSE "Risk Assessment – a brief guide to controlling risks in the workplace" (INDG 163- rev4 08/14)

<http://www.hse.gov.uk/pubns/indg163.htm>

HSE general guidance on risk assessment

<http://www.hse.gov.uk/simple-health-safety/risk/index.htm>

# Unite Risk Assessment Checklist

The following Unite checklist will help Safety Reps assess their employer's risk assessments and action plan.

## General

- a) Has a "suitable and sufficient assessment been done?"
- b) Were Unite safety reps involved?
- c) Do reps have copies of all the assessments?
- d) Do assessments cover all the staff and contractors at risk from substances or processes?
- e) Could a safer substance or process be used?
- f) Are training and information specified in the assessment adequate?
- g) Is the risk assessment being complied with?
- h) Do the present risk assessments need to be reviewed and updated?

## Detailed

- 1 Is your employer carrying out risk assessments for all tasks?
  - Have assessments been carried out?
  - If not, are arrangements in hand for them to be done?
- 2 Who carries out risk assessments?
  - Are they 'competent' (do they have knowledge and understanding of the work involved, of the principles of risk assessment, prevention and control, and of current health and safety applications)?
  - What qualifications/experience do they have?
  - What information, instruction and training have they been provided with?
  - Do they have the necessary time, resources, and authority to do proper risk assessments?
  - Are outside consultants being used?
  - Are specialists, such as ergonomists, brought in where necessary?
  - Have safety reps been consulted over the appointment of the competent persons?
  - How will safety reps be involved in checking the assessments?
  - Are safety reps trained by the employer in risk assessment?
  - Do assessments cover all the people, hazards and risks at work, including contractors?
- 3 Do assessments cover all areas, activities, processes, substances, equipment and departments?
  - Do assessments cover systems of work, training, supervision and working environment?
  - Do they cover work organisation and content?
  - Do they cover hazards which you or those that do the work have identified?
  - Do assessments look at what actually happens and include non-routine operations such as maintenance?
- 4 Do assessments cover all those who could be affected?
  - Are those working outside normal hours such as security staff, cleaners, visitors and contractors covered?
  - Have those particularly at risk (such as lone workers) been identified?
  - Are specific risk assessments done for pregnant workers and young people?
  - Do individual assessments need to be carried out for some activities (eg, working outside the main workplace.)?
- 5 Are existing preventive measures being used properly?
  - Are the control measures followed?
  - Do the control measures work?
  - Are they monitored?
  - Is information, instruction and training provision adequate?

- 6 Have measures been identified to prevent or control the risks to health and safety?
- Can hazards be eliminated (eg, by not using a hazardous substance or removing a bullying manager)?
  - If any hazardous chemicals cannot be eliminated can they be substituted with less dangerous substances?
  - If any hazards cannot be removed can they be controlled at source (eg, by using anti-slip flooring rather than using a warning sign)?
  - If not, can hazards be isolated (eg, moving noisy equipment or isolating a dusty area)?
  - If not, is suitable personal protective equipment provided as a last resort?
  - Is health surveillance necessary?
  - Have procedures for serious and imminent danger been drawn up?
  - Have safety representatives been consulted about the employer's plan to control risks?
  - Are work-related health issues (eg stress, lung disease and MSDs) covered?
- 7 Have safety representatives been given copies of, or access to, the written records of the risk assessments?
- Do they explain the hazards?
  - Do they accurately grade the level of risk?
  - Do they clearly outline the proposed control measures?
  - Do they identify who is at risk?
  - Do they contain sufficient detail to allow safety representatives to judge whether they are adequate?
- 8 Are control measures being implemented?
- Has a plan of action been drawn up for implementing the control measures identified in the risk assessment?
  - Does the plan identify priorities?
  - Does the plan set out an agreed timetable for action?
  - Does the plan identify who is responsible for taking the action?
  - Have sufficient resources (in terms time, money, training and authority) been made available to conduct assessments and implement the measures?
- 9 Are risk assessments kept up-to-date?
- Do planned reviews of risk assessments take place at regular intervals?
  - Are risk assessments redone before changes, such as new equipment or new ways of working, are introduced into the workplace?
  - Are risk assessments reviewed if evidence suggests that control measures are not adequate, eg following accidents, near misses, reports of ill-health, or findings from safety representatives' inspections?
  - Are risk assessments reviewed if there are other reasons to suspect they are invalid, eg in the light of new legislation or new medical evidence?

### **Union involvement**

It is the employer's duty to carry out risk assessments. However Unite safety reps can play an important part in ensuring they are done properly. Safety reps have extensive rights under the SRSC Regs, and include the following:

- To be consulted
- To investigate health and safety matters
- To inspect the workplace
- To receive information, including risk assessments
- To take paid time off to perform their functions and undergo training

It is important that Unite safety reps use their rights to check their employer's risk assessments and plans for risk prevention and control. All the evidence shows that the safest workplaces are those where there are well organised and active union safety reps using their rights fully. The HSE has always maintained that safety reps should be involved in risk assessments.