



Association of British Insurers

Health & Safety for Businesses and the Voluntary Sector

Key Principles



Key Principles

Introduction

The importance of managing health and safety effectively cannot be over-emphasised. Ensuring that people are adequately protected at work is the cornerstone of a civilised and developed society. Regulations must be in place to protect individuals, but these must be proportionate, risk-based, and reflect the level of risk society is willing to tolerate.

However, over-zealous interpretation of regulations can bring the system into disrepute. Some of these behaviours are driven by a concern about civil liability proceedings, fostered by the problems around claims management companies and the dysfunction of the personal injury compensation system.

Insurance is critical in society and the economy as a whole; imagine how many people would start a business if they knew they would be solely liable for 100% of the costs of accidents, fires and theft. Insurers are keen to see that there remains a continued focus on the control of the 'real' health and safety risks organisations face. In this context we are also keen to ensure that insurance continues to be very much an 'enabler' and not a 'blocker'. We hope that in setting out these principles this will provide the necessary clarity that organisations need to realise the benefits of the inward investment they continue to make to prevent accidents and ill-health.

The Government accepted all the recommendations proposed by Lord Young in his report on health and safety¹. The insurance industry welcomed the report and in direct response to it, the industry has prepared this document.

Mission Statement

This document sets out the key principles that insurers look for when evaluating the management of health and safety. There will be a degree of variance in the way in which individual insurance companies view these, but this document outlines, in general, what insurers want to see.

We hope that this document will also dispel some of the current myths surrounding over-cumbersome insurance related burdens. This can give organisations, including those in the voluntary sector, reassurance that they have complied with the appropriate levels of health and safety to obtain insurance.

¹ *Common sense, Common Safety*, A report by Lord Young of Graffham to the Prime Minister following a Whitehall-wide review of the operation of health and safety laws and the growth of the compensation culture: 2010, HMG, available at www.cabinetoffice.gov.uk.

Health and Safety and the Law

Insurers play a major role in helping organisations protect against and manage risk. They do this by providing advice and guidance on assessing and managing risk, and incentivising good behaviours. As such, they complement the regulatory system, but insurers are not themselves regulators and they deal with civil, not criminal, liability.

At civil law, organisations have a general duty of care to employees and others who may be affected by their activities. Where injury or damage arises, the injured party may be able to bring a claim for compensation against the organisation.

Criminal law (such as the Health and Safety at Work etc Act 1974 and the regulations made under it) requires most organisations to protect employees and others who may be affected by work activities so far as is reasonably practicable. Breaches of such requirements can lead to criminal prosecution, fines and in very serious cases, imprisonment.

Key Principles

For the purpose of this document, insurers have identified five key principles that organisations should be addressing to manage health and safety effectively. These are, to:

1. Ensure senior management commitment and leadership
2. Obtain competent assistance
3. Adopt a structured approach
4. Complete suitable and sufficient risk assessments
5. Foster a positive culture

Critically, the principles identified reinforce significant aspects of current statutory requirements that control health and safety. They complement established and accepted guidance prepared by the Health and Safety Executive (HSE). As such, the principles and the framework they underpin are already in place and create no additional burden on organisations, particularly small/medium sized enterprises and those in the voluntary sector.

Key Principle 1: Ensure senior management commitment and leadership

This first key principle is that there is strong and visible senior management commitment on the issue. For most, there should be evidence that senior managers have recognised and adopted the principles established in the 'joint code' published by the Health and Safety Executive (HSE) and the Institute of Directors (IoD) - Leading health and safety at work².

This document is designed for use by all directors, board members, governors, trustees, officers and their equivalents in the private, public and third sectors. It has relevance to all organisations of all sizes – although further contextual guidance has been provided by the HSE for small businesses.³

It sets out a number of essential management principles - promoting leadership, worker involvement, and effective assessment and review - detailing good practice guidelines to promote innovation.

Evidence of compliance with the principles set out in this document, coupled with the right levels of commitment and a positive culture will contribute positively to providing insurers with the reassurance they need that health and safety is being taken seriously.

² Leading health and safety at work, Health and Safety Executive and the Institute of Directors, INDG 417 available at www.hse.gov.uk/pubns/indg417.pdf

³ Available at www.hse.gov.uk/leadership/smallbusinesses.htm

Key indicators

Dependent upon the size and nature of the undertaking, senior management should (as a group):

- accept formally and publicly their collective role in providing health and safety leadership in their organisation (usually through the development of an effective health and safety policy).
- ensure that their decisions reflect their health and safety intentions, as articulated in their health and safety policy statement.
- recognise their role in engaging the active participation of their staff in improving health and safety performance for their organisation.
- ensure that they adequately assign responsibility for implementing their policy - defining roles, assigning responsibilities, establishing accountability, and delegating authority.
- obtain competent assistance to advise their organisation on matters relating to health and safety.
- ensure that they are kept informed of, and alert to, relevant health and safety issues.
- appoint one of their number to be responsible for and have the necessary accountability and authority for health and safety.

Individually, senior managers must be actively involved, accept their role, delegate as required and set an example.

KEY PRINCIPLE 1 CASE STUDY

A small engineering company became concerned about an apparently lax attitude towards health and safety exhibited by its employees in its factory premises. It transpired that nobody within management was specifically responsible for health and safety issues. Following a senior management meeting the following measures were adopted:

- *A senior manager became responsible for health and safety issues and attended a recognised health and safety course.*
- *Senior staff were trained in health and safety awareness.*
- *A health and safety audit team was set up and held monthly meetings resolving any queries that had become apparent following workplace audits.*

Employees of the company reported that the leadership shown by the senior management had resulted in a greater recognition of the value of good health and safety. No lost time accidents have occurred in the two years since the new approach was introduced.

Key Principle 2: Obtain competent assistance

Under the Management of Health and Safety at Work Regulations⁴, organisations are required to appoint one (or more) competent people to assist them in complying with health and safety requirements.

Good advice on health and safety is key to getting things right and avoiding unnecessary bureaucracy. Evidence of compliance with this requirement will provide insurers with the reassurance they need that health and safety will be properly managed in a sensible and pragmatic manner. Of course the arrangements made by organisations will differ widely depending upon their individual circumstances and complexity of the risks involved - ranging from appointing someone internally through to the use of specialist consultants.

A person is regarded as competent where they have relevant and sufficient training, experience and knowledge. The definition of 'competence' required will not be the same for all organisations – an office is not a construction site! Therefore, competence is determined by the size and nature of the undertaking and its risk profile set against those individuals who provide assistance.

For an office or charity shop, for example, levels of competence may be as simple as having an understanding of relevant regulations/current best practice and an awareness of the limitations of one's own experience and knowledge. More complex or higher risk activities – such as a construction site – will require higher levels of knowledge and experience. Further guidance on this important issue is available from the HSE⁵.

It is important to note that many organisations (including small businesses and those in the voluntary sector) will not need to use external consultants. Frequently, these appointments can be made internally. However, where external expertise is required only those registered with the Occupational Safety and Health Consultants Register (OSHCR) should be utilised. Insurers will be reluctant to accept the opinions of a consultant not on the register. Further information is available at www.oshcr.org.

⁴ The Management of Health and Safety at Work Regulations SI 1999/No. 3242 (Regulation 7) available at www.legislation.gov.uk/ukSI/1999/3242/contents/made

⁵ Getting specialist help with health and safety, INDG 420 and the HSE Statement to the external providers of health and safety assistance available at www.hse.gov.uk/business/competent-advice.htm

Key indicators

Dependent upon the size and nature of the undertaking, the organisation should:

- have access to the necessary competent assistance to effectively identify and advise on health and safety issues.
- have arrangements in place to ensure that – where they need to appoint external advisers – those appointed are competent and registered.
- provide adequate information and resources for those appointed so that they can effectively discharge their duties.
- co-operate effectively with those appointed to ensure that they can effectively discharge their duties.
- have clearly defined and communicated the specific tasks and responsibilities of those appointed so that they are fully understood by all.

KEY PRINCIPLE 2 CASE STUDY

A charity with many employees and volunteers throughout the country were aware that their activities had expanded beyond being office based to include many visits to vulnerable persons in their own homes. They were concerned that their in-house health and safety capability which was appropriate when their activities were office based may not be suitable for the risks encountered with home visits.

The trustees saw the need for external professional assistance and talked to similar organisations to ascertain their experience and from this selected an external provider with expertise relevant to their activities. The independent adviser produced a list of recommendations which the trustees then rolled out across all their activities.

Key Principle 3: Adopt a structured approach

Applying a structured approach to managing health and safety is not only a legal requirement, but essential to the prevention of accidents and ill-health. Under the Management of Health and Safety at Work Regulations⁶, organisations are required to make appropriate arrangements to ensure the effective planning, organising, controlling, monitoring and review of any preventive and protective measures that are put in place.

These arrangements generally relate to the health and safety management programme within the organisation, the complexity of which will be determined by the size of the organisation and the nature of the activities undertaken. Such arrangements must be recorded (usually as part of the health and safety policy - see below) if there are five or more employees.

Accepted approaches have been put forward by the HSE. In general, these outline a number of inter-related elements of successful health and safety management.

Adopting such a structured approach not only prevents accidents and ill-health, but also lends transparency to the whole management system assisting in the defence of claims and demonstrating to insurers that a systemic approach is being adopted.

⁶ The Management of Health and Safety at Work Regulations, SI 1999/N0. 3242)Regulation 5) available at www.legislation.gov.uk/uksi/1999/3242/contents/made

Key indicators

Dependent upon the size and nature of the undertaking, elements of successful health and safety management include:

A Policy that:

- is specific to them, clearly written, and drawn-up in consultation with employees or their representatives.
- includes a statement of intent (dated and signed by the most senior accountable person).
- details the organisation for and the specific responsibilities of those required to implement its requirements.
- refers to specific arrangements for managing particular health and safety hazards.
- is reviewed, revised and revalidated as often as is necessary.

Planning strategies that:

- set clear objectives and performance standards for the implementation of specific health and safety precautions.

Organisational control that:

- encourages co-operation, maintains effective communication, and ensures competence.

Monitoring activities that include both:

- proactive techniques (e.g. inspections, audits, tours, etc.)
- reactive techniques (e.g. near-miss reports, accident investigation etc.)

Systematic **auditing** against:

- internal standards, key performance metrics and external best practice.

A process of **review** that:

- is completed at appropriate intervals and integrated into any strategic planning process.
- considers performance standards; ineffective or insufficient procedures; specific health and safety objectives; accident, ill-health and near-miss data; and the immediate causes, root causes, trends and common features of accidents, ill-health and near-misses.

KEY PRINCIPLE 3 CASE STUDY

A food production company historically had an excellent safety record, but in one year, rather unexpectedly, three serious accidents occurred. Although health and safety had always been a business priority, a structured approach had been lacking. To tackle this, the CEO and senior management created a Health and Safety Management Policy that was specific to their business operations and clearly defined its objectives to all staff. It included:

- *An organisation structure in relation to the employees tasked with health and safety responsibilities*
- *Action plans for identifying risks*
- *Health and safety monitoring activities*
- *Assessment procedures*

Detailed records of all actions and accidents were kept and published periodically meaning all members of staff were kept informed. A year after the business implemented their new health and safety Management Policy, lost time due to injuries decreased by 43%, there was a 63% reduction in major safety issues and an overall greater understanding by employees at all levels of health and safety issues.

Key Principle 4: Complete suitable and sufficient risk assessments

Risk assessment has been a statutory requirement since the implementation of the Management of Health and Safety at Work Regulations in January 1993. They are critical in establishing relevant performance standards for the control of specific risks. Under the requirements, most organisations must complete 'suitable and sufficient' risk assessments. Where there are five or more employees, these must be recorded.

The key purpose of risk assessment under these requirements⁷ is to determine the extent of compliance with health and safety law and associated guidance or good practice, identifying any further measures that need to be implemented. As a result, for most organisations there should not be an over-dependency on, or emphasis to, determine a 'quantitative' assessment of the risk.

Good risk assessments are important to insurers as they:

- identify the appropriate and practical controls that need to be implemented. This reduces the level of risk exposure and the potential for claims, which for an insurer makes the organisation a more attractive proposition.
- can assist in the defence of claims if well documented. Other aspects of the health and safety management system (such as, policy, training, documentation etc) may also be called into question.

Of course, risk assessments will not prevent accidents on their own, but if used as a first step to develop appropriate safe systems of work, significant steps can be taken to prevent them.

More specific risk assessments also need to be made under a number of other health and safety regulations. These are in addition to the risk assessments required by the Management Regulations. An example might be those required under the Manual Handling Operations Regulations.

⁷ The Management of Health and Safety at Work Regulations, SI 1999/No. 3242, (Regulation 3), available at www.legislation.gov.uk/uksi/1999/3242

Key indicators

Organisations should ensure that the risk assessments they complete:

- focus on significant issues using published guidance.
- concentrate on precautions, not estimations of 'risk' - comparing existing precautions, procedures with recognised guidance/standards.
- consider all those who may be affected including third parties, volunteers etc.
- identify circumstances where more specific assessments are required.
- identify achievable improvements, which are then developed into actions.
- record findings accurately, capturing key considerations and the research undertaken.
- apply caution in the use of generic risk assessments, ensuring that they are made relevant to actual circumstances.
- track and close out any actions for evidence of compliance.
- set triggers for the appropriate review of the assessments based on their continued validity and change.
- archive assessments in a retrievable format.

KEY PRINCIPLE 4 CASE STUDY

A manufacturing company saw its laissez faire approach to health and safety catch up with it when an employee tragically lost his life after being caught in a conveyor belt. The belt was not sufficiently guarded and posed an extreme health and safety hazard. An investigation revealed that, had the company adequately maintained guarding around the conveyor belt, the death would have been avoided. The matter went to trial and the judge made clear that whether the managing director was aware of the situation was not the issue: he should have known as this was a long-standing problem. The managing director was sentenced to 12 months imprisonment for manslaughter and an area manager also received a custodial sentence. The company received a substantial fine and had to pay the prosecution's costs.

This reflects a lack of suitable and sufficient risk assessment. This incident could have been avoided had the firm's management identified risk areas, focused on establishing precautions, accurately recorded dangers and taken steps against these dangers, communicating all these aspects to every member of staff.

Key Principle 5: A supportive culture

Documented systems may look great, but the standards identified need to be implemented and followed to successfully prevent accidents and disease. Achieving this 'active implementation' can of course be heavily influenced by the safety culture in a particular organisation. Competing demands between productivity and safety, employee perceptions of bureaucracy, ineffective safety leadership and so on all impact the safety culture within an organisation.

As a result, organisations not only need to define arrangements that are adequate to control the particular hazards they face. They must also get employees to agree that those arrangements are both necessary and workable. Working to change employee attitudes and behaviours can have a significant impact on improving health and safety culture.

However, one of the most significant elements that considerably influence the safety culture within an organisation is leadership. Other factors which positively impact safety culture include employee involvement and consultation, and effective supervision, training and information.

Key indicators

Indicators of a positive health and safety culture include the following:

- effective leadership throughout an organisation.
- senior management and employee awareness of risk.
- appropriate accountability.
- appropriate and effective consultation, involvement, cooperation and communication.
- the provision of adequate finance and resources.
- appropriate status of health and safety advisors, having direct access to senior managers.
- programmes driven by internal aspiration and improvement and learning cultures, rather than compliance.
- sharing performance information across the organisation.

KEY PRINCIPLE 5 CASE STUDY

The maintenance of a large country estate was carried out by teams of people working in remote locations. The demanding nature of the work, often in adverse weather, was giving rise to manual handling accidents and there was a high sickness absence rate. To address this problem, management undertook an inclusive approach to developing a solution. Previous attempts at implementing health and safety had been a top down process which did not adequately consult those directly affected, resulting in policies that were only followed due to the risk of coercion.

After careful consultation, a balanced strategy was reached that facilitated greater health and safety without impeding business profitability. Obtaining staff input was such a success that the company set up a suggestion scheme, complete with boards in site offices where staff could raise any health and safety issues that they believed important. This balanced and inclusive approach meant that employees, at all levels, valued the greater health and safety steps and willingly abided by them, improving the overall supportive culture towards health and safety in the company.

Moving Forward

Insurers, partnered with customers, have a shared interest in ensuring that health and safety is managed in a sensible and proportionate manner.

We believe that organisations that adopt the principles set out in this document will:

- continue to help manage risk in order to prevent accidents and disease.
- provide the necessary transparency around the risks in a particular business and the controls necessary to achieve statutory compliance through effective risk control – which in turn should lead to more favourable insurance terms.
- demonstrate that a sufficiently robust approach in determining, implementing and reviewing performance standards is being adopted – something that would assist greatly in the defence of claims.

As previously identified, these principles reinforce significant aspects of current statutory requirements that control occupational health and safety. They complement established and accepted guidance, creating no additional burden on organisations.

It should be remembered that different organisations will require arrangements that are proportionate to their undertaking in the context of the principles identified. If there is any confusion surrounding the requirements of an organisation in managing health and safety, individual insurers and the HSE should be contacted directly⁸.

⁸ Contact is via HSE's website www.hse.gov.uk



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